Vol. II

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1916

No. [redacted] 24

PAINE LUMBER COMPANY, LIMITED, GOULD MANUFACTURING COMPANY, THE R. McMILLEN COMPANY, ET AL., APPELLANTS,

vs.

ELBRIDGE H. NEAL, INDIVIDUALLY AND AS SECRETARY AND TREASURER OF THE JOINT DISTRICT COUNCIL OF NEW YORK AND VICINITY OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA AND AMALGAMATED SOCIETY OF CARPENTERS AND JOINERS OF AMERICA, ET AL.

PPEAL FROM UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

FILED MAY 14, 1914.

(24,216)

tion will be here this afternoon to give his testimony on this point.

XQ128. When was the organization formed? A. I don't remember.

XQ129. How long have you been a member? A. A number of years.

XQ130. Ten years? A. Perhaps.

XQ131. Well, as the result of this meeting, they decided not to sign any agreement with the carpenters, is that right? A. No, not as a result of the meeting.

XQ132. Well, following the meeting? A. As the result of a meeting of the Builders' Association, the entire association.

XQ133. Decided against doing it? A. They decided not to enter into any agreement with the Carpenters' Union at that time.

XQ134. You say you lent these carpenters aid in time of trouble. What trouble was that you lent them aid in? A. I had not in mind any particular troubles.

XQ135. What did you mean by saying that you lent them aid? A. Why, we lent them aid by inducing builders to come into our Building Association, and therefore being required to employ union trim.

XQ136. You don't mean that you voluntarily raised their wages or reduced their hours? A. No.

Mr. Merritt: Read that question and answer.

XQ135 and answer re-read.

Witness: I meant "union men."

2404 Edward J. Maguire for Complainant—Cross.

Mr. Beattie—

XQ137. Is that all you meant by saying that you or your association had lent the carpenters aid in time of trouble? A. Yes.

XQ138. You did not mean to imply that you had ever raised their wages or had cut down their hours except when you had to? A. No.

XQ139. Well, have you kept in touch with building operations in Brooklyn since that time, September, 1910? A. No, except in a general way.

2405 XQ140. Don't you attend the meetings of this Builders' Association? A. Yes.

XQ141. Have you found out that these carpenters have kept up to the order that was announced, as you say, by Erickson, that is, by attacking the trim of Cross, Austin & Ireland, and Bossert, and Loomis? A. No.

XQ142. There is no reason for them not attacking Cross, Austin & Ireland, or Loomis, that you know of, is there? A. I have not any knowledge.

XQ143. Have you known the Newtons very long? A. Yes.

XQ144. How many years? A. Oh, eighteen
2406 years, I guess.

XQ145. Which Newton is that? A. I have known them as the Kenyon & Newton Company and the A. J. Newton Company for a number of years.

XQ146. Have you known them personally? A. Yes.

XQ147. Which Newton have you known longest? A. Why, the Albro J. Newton Company.

XQ148. Do you know how many men he has got in his factory now? A. No.

Edward J. Maguire for Complainant—Cross. 2407

Mr. Maloney—

XQ149. Is Newton a member of your Builders' Association? A. No, sir.

XQ150. Did you ever try to purchase any trim from the Empire City Girard Company? A. I have taken estimates from them.

XQ151. And from the Murray & Hill Company? A. No.

XQ152. James C. Forbes? A. No.

XQ153. Harlem River Lumber & Woodworking Company? A. No. 2408

XQ154. You say that it developed that Newton was the first one that they attacked. How do you know that? Is that just a mere guess? A. I knew from actual knowledge that they had not attacked either Cross, Austin & Ireland or Loomis.

XQ155. How did you know that? A. From being in touch with affairs connected with those firms.

XQ156. Don't you know that they don't want to work on any non-union trim at all—that the men won't work on any non-union trim at all, the union men? A. Voluntarily, individually, themselves?

XQ157. In any way? A. I did not know that. 2409

XQ158. You did not? You supposed that the leaders called them out? A. Yes.

XQ159. You know that the leaders do not allow them to work upon any non-union trim at all? A. I did not.

XQ160. Then why did you ask the question "individually or" etc.? A. Because I supposed they had been allowed to work on non-union trim.

XQ161. That you thought there was a distinction between the men themselves leaving the jobs

and the men calling them out, the leaders? A. I don't understand the question.

XQ152. Didn't you mean that you thought there was a distinction between the carpenters themselves leaving jobs individually and leaving because they were asked or required to do so by their business agents or leaders? A. I mean that I don't think, did not think, that any individual carpenter would leave a job because non-union trim was being used.

XQ153. Did you think that they would leave
2411 where the leaders required them to do so? A. I do.

XQ154. And you understand from that, that the leaders do not allow the men to work upon what they call non-union trim? A. I don't understand that.

XQ155. Wasn't that made plain to you by these men you talked to, Erickson and others? A. No.

XQ156. Didn't that come up at this meeting in which you met this man whose name you say was Rice? A. It did.

XQ157. It was said there that the men would not work on non-union trim? A. It was not.

2412 XQ158. Wasn't it said? A. No, he said that they would not allow them to work on Newton's trim.

XQ159. And they singled out Newton alone? A. Yes.

XQ150. And they were perfectly willing to work on the trim of Bossert, Cross, Austin & Ireland, and Loomis, and of other non-union concerns? A. Yes.

XQ161. Was there anybody else besides yourself present at that conversation that you know of,

that would testify to that same effect? A. I think so, yes.

XQ162. Why did you make this affidavit, in what action, the one that has been alluded to in your examination? A. The A. J. Newton Company against Ericksen and others.

XQ163. Did you make another one in an action brought by Bossert? A. No.

XQ164. Did you know that your affidavit was used in that action? A. No.

XQ165. Did you refuse to make an affidavit in that action? A. No. 2414

XQ166. When you made that affidavit, where were you? A. In Mr. Merritt's office.

XQ167. Did you know anything about the American Anti-Boycott Association? A. No.

XQ168. Are you a member of it? A. No.

XQ169. Didn't you know that they were conducting all this litigation and attack upon these union men? A. I did not know that at all.

XQ170. Did you ever hear that name before? A. When I visited Mr. Merritt's office, I read it on the entrance door.

XQ171. Did you talk with Newton before you 2415
made the affidavit for Merritt or did you talk with Merritt first? A. I talked with Mr. Newton.

XQ172. Where did he see you? A. I can't remember.

XQ173. It wasn't at your house, was it? A. I don't remember.

XQ174. How long after that was it that you saw Mr. Merritt? A. I can't remember.

XQ175. Did you go and inform Newton about this difficulty on your job, or did Newton come to see you? A. I informed Newton.

XQ176. When? A. I can't remember, perhaps the day when the job was struck.

XQ177. What did Newton say? A. Why, I don't remember his language, the substance of what he said was, that he was sorry, but that he did not see how he was going to correct it any.

XQ178. Did he, then or later, tell you that he was a member of the American Anti-Boycott Association, and that he would obtain an injunction against these men? A. No, never mentioned it to me.

XQ179. Did you know that Bossert also had an injunction? A. No.

XQ180. Never heard of it? A. Never.

XQ181. How long after the men left the job, you say, some of them returned, about three weeks? A. Within three weeks.

XQ182. Did they all return? A. No. I don't know that any of the men that struck returned. I can't say that. Union men returned.

XQ183. Union men returned? A. Yes.

XQ184. How do you know that? A. Why, from hearsay.

XQ185. Only from hearsay? A. Yes.

XQ186. You can't tell who told you? A. No. I take it for granted that they were union men.

XQ187. It is an assumption on your part? A. Yes, I assume that they were union.

XQ188. Who was the man who had that part of the contract on these six buildings, who actually employed the carpenters? A. John Hackman.

XQ189. Was Hackman an independent contractor, so far as you were concerned? A. So far as I knew.

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XQ190. Is Hackman a carpenter by occupation? A. Yes.

XQ191. Is he a member of the union, do you know? A. That I don't know.

XQ192. Where does he reside, in Brooklyn? A. Yes.

XQ193. Now, when you told these men, Erickson and the other union men that you saw, that their actions were unreasonable and insane, as you described them, didn't these men controvert with you as to their actions and attitudes? They did not admit what you said? A. I don't remember.

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XQ194. Do you remember your part of the conversation better than what they said? A. No, not at all, I remember a great deal of what they said.

XQ195. Did they admit all you said, that they were unreasonable and insane, and that these actions were unjustifiable? A. I did not say it personally, I was a party to the conversation, I don't recall now who was our spokesman at that committee.

XQ196. You didn't think that the quality of the material made by these other people was up to the quality of the material made by these shops that they call non-union. Did they admit that? A. In part.

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XQ197. In what language? A. I can't recall their language. They admitted that many of these mills would be unable to get out a number of contracts in good time.

XQ198. Well, how did they meet that charge, then, if they admitted it? A. Why, they read from a pamphlet a number of the firms' names that would be able to fill any large contract.

XQ199. And that disposed of that argument

made by you and your organization, did it? A. Why, the argument may have been dropped, I don't know that it was disposed of.

XQ200. Then you also said that they were discriminating aginst Newton, instead of discriminating against all non-union men. What did they say to that argument? A. They said that they could not take up a fight against all of the mills at one time, because they could not possibly win, if they attacked all of them at one time.

XQ201. But they said they were not going to use
2423 non-union trim, no matter where it was made, by Newton or anybody else, and that they would attack them all in time? A. They did not say so.

XQ202. Was that the impression you got? A. No. The impression was, that they would not allow us to use Newton's trim. As a matter of fact, Cross, Austin & Ireland and Bossert's was being used.

XQ203. You mean by that, that they would not allow you on this particular job to use the Newton trim which you had purchased? That's right, isn't it? That was the practical question you had before you? A. Your questions have reference to me
2424 individually or our association members?

XQ204. I was confining myself to you. And that is the impression you got? A. Yes.

XQ205. That was the practical question before you, about the use of the material on that job? A Yes.

Mr. Merritt: You are referring to him individually?

Mr. Maloney: Yes.

XQ206. Now, did they not say to you, that if you

entered into this agreement with them to use only trim made by them, by their union members, that in that case you might use this material? A. No.

XQ207. On the job you had—— A. No.

XQ208. And the job would be completed?

Mr. Merritt: I don't understand he has been asked individually to sign any agreement.

A. I take it that the question means me individually.

XQ209. There was a meeting called at which a number of your association were present? A. Yes. 2426

XQ210. Was an offer, in substance such as I have just referred to in my preceding question, made to those present? A. Individually?

XQ211. Individually or collectively, either way? A. As representing the association, yes.

XQ212. Did you understand by that, then, that you might go ahead and continue the completion of this job if you and your associates agreed to use only the trim made by the union men? A. Yes.

XQ213. This meeting was called by your association for the purpose of having a conversation with these men, was it not? A. Yes. 2427

XQ214. And at that conversation, after discussing the matter back and forth, this proposition was made by the men, the carpenters' men? A. Yes.

XQ215. Now that proposition did not involve discriminating against Newton alone, but was a proposition that you should use only trim made under what they called union conditions? A. Exactly.

XQ216. How long have you been in the building business? A. Eighteen years.

XQ217. Have you ever built anything besides private houses? A. Yes, sir.

XQ218. Apartment houses? A. Apartment houses.

XQ219. And I understood about one job a year, or operation? A. Yes.

XQ220. It has never exceeded that number of operations in one year? A. Oh, yes, there may have been two operations in one year.

XQ221. Was this an ordinary job for you, these six private dwellings, or was this larger than
2429 usual? A. An ordinary job.

XQ222. Who composed the members of the Arbitration Committee of your association? A. Why, I can't recall, my memory would have to be refreshed.

XQ223. Were there several men? A. Yes.

XQ224. Are they builders? A. Yes.

XQ225. Are there any material men that belong to the association? A. None at all.

XQ226. I would just like to show you the names of all these complainants. A. Yes.

XQ227. None of those names came up at all in this action, did they? A. No, not mentioned, that I
2430 know of. They may have been read from this pamphlet.

Mr. Mayer—

XQ228. You don't recall any of these names? A. I don't recall.

By Mr. Maloney—

XQ229. You mean, they may have been read from the pamphlet as mills from whom materials could be supplied? A. Yes.

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XQ230. Well, that is not likely, I don't suppose there is any questions of those names. A. I have not any knowledge of those names.

XQ231. Well, now, when you were being examined, you stated that your association had aided these men by forming an association under which the members were required to employ only union trim, and then I understood you to correct it to say only union men. A. And I say men, employ union men.

XQ232. There was no agreement, then, or discussion of agreement, in your Builders' Association, prior to this time that you have referred to, about the members of the association using only union made trim? A. No.

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XQ233. The members of the association have, however, agreed to employ union men only? A. Union men.

XQ234. And to comply with union conditions generally? A. As they would apply to union men.

XQ235. As they would apply to union men? A. Yes.

By Mr. Mayer—

2433

XQ236. Is your Builders' Association composed of different allied trades in the building line in Brooklyn? A. No, sir.

XQ237. Or are just master builders? A. Strictly what are known as speculative builders.

XQ238. And has that association as an association at any time had any written agreement with any union? A. I don't remember that they have had.

XQ239. Has it been the habit or custom of the association to deal with unions as unions, or as in-

dividuals? A. Why, it has not been adverse to dealing with the unions as unions.

XQ240. Has it dealt with unions as unions? A. Yes.

XQ241. And hasn't it been your experience in the building line that the most profitable way to deal with labor is through organizations of labor? A. I say yes, in the building trades.

XQ242. I am talking of the building trade. A. I say yes.

XQ243. I take it that you are only familiar with
2435 the building conditions in Brooklyn? A. I would say yes.

XQ244. And that the best results for employer and employee are gotten through conferences with labor organizations as labor organizations, and master organizations as master organizations? A. I would say yes.

XQ245. Now, when Erickson first called upon you, or you met him, on the 10th day of September, 1910, do I quote you correctly when I say that he told you that he was afraid he would have to call off the men because of the use of non-union trim on your job? A. Yes.

2436 XQ246. And he mentioned at that time no particular name? A. Not that I can remember.

XQ247. Your conferences with Erickson, or your talks with Erickson, were perfectly friendly? A. Yes.

XQ248. Contained no threats of any character on his part? A. No.

XQ249. Showed no animosity against you particularly, against any persons particularly? A. No.

XQ250. The impression that he left with you

was that he was handling on behalf of his organization, an organization matter concerning the use of non-union trim? A. Exactly.

XQ251. And you understood, did you not, from your experience in the building line, that there was an agitation prevalent concerning the use of non-union jobs in and about the city? A. That there had been?

XQ252. Had been, generally? A. Yes.

XQ253. And you understood generally that the Carpenters' organization and its members did not want to work upon materials which were made by union men other than their brother members.

Mr. Merritt: I don't think it is proper to examine this witness as to what he may have understood as to the Carpenters' Union and its members; I don't believe he is competent to testify as to what each member would do.

A. As expressed by their representatives.

XQ254. And you knew, then, that that was the foundation of their agitation in Brooklyn and that caused the strike on your job? A. Yes.

XQ255. Now with respect to a statement that crept into the record, I think inadvertently, that the union mills could not handle all the business that might be given them—you know, as a matter of fact, that a number of the larger non-union mills cannot handle more than a certain amount of work at one time, don't you? A. Yes.

XQ256. You know, don't you, Mr. Maguire, to be perfectly fair, that the members of the Master Carpenters' Association here, such as Fuller Co., Thompson-Starrett—they are concerns with which

you are familiar generally, are you not? A. Yes.

XQ257. That they get their materials from union mills? A. I don't know it.

XQ258. Do you know that there is an agreement in existence between the Master Carpenters' Association of this city and the Carpenters' Union whereby non-union trim is not to be set except in certain particular instances? A. I don't know it.

XQ256. Don't know anything about it? A. No, sir.

XQ257. Do you know anything about this action
2441 of the Paine Lumber Company against Neal? A. No, sir.

XQ258. Do you know the principles that are involved in it? A. Not a thing.

XQ259. All you know is what possibly might be involved in the Newton case? A. That's it.

XQ260. If you were told that there is such an agreement in existence between the Master Carpenters' Association and the Carpenters' Union, which is being attacked in part in this action here, and that that agreement provides that non-union material is not to be installed, except 1⅜", and that Thompson-Starrett Company, George A.
2442 Fuller Company, Mark Eidlitz & Son, and other of the largest building contractors in New York are members of the Master Carpenters' Association, and as such are bound by this agreement, would that change your statement that union mills cannot furnish sufficient material for jobs in this city? A. I did not so state.

XQ261. You don't mean to say that the union mills cannot completely fill orders for trim for use in this city? A. I mean to say just what I said.

XQ262. Perhaps I misunderstand you? A. Yes.

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XQ263. You take a job such as the Thompson-Starrett Company is putting up right along—— A. My answer referred to Brooklyn mills.

XQ264. To Brooklyn? A. Yes.

XQ265. Then, what you meant to say was, that there was not a mill in the Borough of Brooklyn, a union mill in the Borough of Brooklyn, to your mind, which could furnish just exactly the trim that you wanted? A. Oh, no. I said that there was no union mill as recognized by the Carpenters' Association that could furnish trim that I would want.

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XQ266. You had dealt exclusively with the Newton Company in all your operations? A. Yes.

XQ267. And you were, to all intents and purposes, dealing solely with the Newton Company because you wanted their stuff. Those contracts that you made were not made in competition with anybody, were they? A. At times they were.

XQ268. But you preferred Newton's trim? A. Yes.

XQ269. And when you commenced to think about a building operation each year, you naturally thought "I guess Newton will furnish the trim on this job?" A. Yes.

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XQ270. So that you were not really going into the open market and asking competition on your job? A. Not generally.

XQ271. So you put it in another way? You had a preconceived notion that Newton would give you your trim, no matter what job you had? A. Yes.

XQ272. Before you started the job? A. Yes.

XQ273. And the same impression, Mr. Maguire, that you got, the same understanding you had with regard to the conditions under which the carpen-

ters' representatives were asking for recognition of union trim, without animosity towards any particular person, without any threat, that the same impression you had at these conferences that were held at the Builders' Association, that is true, isn't it? A. Let me understand your question.

Question repeated.

A. I don't believe that there was any animosity against any individual trim manufacturers.

2447 *Mr. Maloney—*

XQ274. Nor any individual at all, any feeling displayed? A. No, I think just what they so stated there, that they proposed to take one of these mills at a time, because they did not feel that they were strong enough, that is the impression I got, to attack four or five mills, and have these four or five mills give them a fight at one time.

XQ275. So that your idea, your impression, your understanding from all your talks with Erickson and these laboring men was, that there was a general campaign going on, conducted in the order
2448 that they could conduct it properly, to see to it, if possible, that the members of the union worked on trim which was made by their brother members? A. I suppose so.

XQ276. That is your impression and understanding. A. Well, I had not that impression until you created it now. I have the impression now, isn't that sufficient.

By Mr. Merritt—

RDQ277. Mr. Mayer asked you as to your un-

derstanding as to the members' attitude towards non-union trim. Is it your understanding that the members individually do not desire to work on non-union trim? A. No, that isn't it. 2449

RDQ278. What is your understanding on that point? A. My understanding is, that the organizations as organizations and as controlled by officials, are anxious to work on union trim, but that the men are perfectly indifferent about it.

By Mr. Mayer—

RXQ279. Now, Mr. Maguire, there is one question I forgot to ask you: Are you at all familiar with conditions in Manhattan? A. Not at all. 2450

RXQ280. Not at all? A. No, so it is waste of time to ask about it.

Mr. Beattie: I move to strike out all his evidence on the ground that it has been shown that the mill products of none of the complainants are involved in any of the matters that he testified about, and as incompetent, irrelevant and immaterial generally.

Mr. Mayer: Same motion.

2451

Subscribed and sworn to before me this day of , 1912.

2452 Frederick B. Norris for Complainant—Direct.

FREDERICK B. NORRIS, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Frederick B. Norris?

Q2. And your age? A. 46.

Q3. Do you live in Brooklyn, and conduct business as what is known as a speculative builder? A. Speculative builder.

2453

Q4. And let out your contracts to master carpenters, plumbers and others to carry out your work of building? A. Yes, sir. Since May it is Frederick B. Norris Company.

Q5. In the fall of 1910 you were conducting certain building operations in Brooklyn? A. Yes, sir.

Q6. What were these building operations? A. I was building five houses, corner Lincoln Road and Bedford Avenue.

Q7. And you had purchased certain material from the Albro J. Newton Company for these buildings? A. All the woodwork, entirely.

2454

Q8. When was that contract made with the Newton Company? A. Well, it was made probably about June; I am not familiar with just the date now; I have not looked it up.

Q9. And did it amount to several thousand dollars? A. Well, it amounted to over $12,000, somewhere along about $15,000.

Q10. Now, did you have any conversation with any person purporting to come from the Carpenters' Union concerning the use of this non-union trim? A. Not a word.

Q11. Did you ever meet a man named Erickson concerning it? A. I did not see him until the day before. I had just come from a meeting of the Brooklyn builders; when I came back, a man by the name of Rice was on the job, saying there was going to be trouble.

Q12. About when was this? A. This was the day before the strike was called, as I remember it.

Q13. Do you remember the date when the strike was called? A. September 17, I think, 1910.

Q14. Now, you met this man Rice, and Erickson? A. The afternon before the strike.

Q15. Did they represent themselves to be—— A. From the Carpenters' Union.

Q16. And I will ask you to give us the conversations?

Mr. Mayer: I object; incompetent, irrelevant and immaterial, and in no way binding on any of these defendants; furthermore, that it concerns an operation affecting Newton trim, which is not involved in this case, and in no way connected with the issues herein, hearsay.

Mr. Beattie: Same objection.

A. Why, I say, I had just come from the meeting of the Brooklyn Builders' Association, and when I came up I met these two men. They had not been around the job, because I did not know them. They said who they were. "Well," I said, "it is rather a peculiar thing. A great deal of the trim is in and the rest on the way, and if I had known it earlier in the season, why, I might have made some different arrangement, but as they are that far now, I could not do anything but go on with the work, and

2458 I intend to, as my men are all union men, everything through the job." I did not see why they should bother me any. I said if they would go right down to the meeting (I came away early) probably they could make some arrangement down there. They said, "The work will be stopped." I said, "I don't think it will," and they went off.

Q17. Did they mention the name of the firm supplying the trim, the Albro J. Newton Company? A. Oh, yes; they said they were going to unionize the Newton mill and there would be trouble.

2459 Q18. Did they state what the trouble would be? A. Well, I think they said that it would be a strike if—well, I said to them, "This is a late time to speak of it now. If we had known of it earlier, we might have made some other arrangement." "Well," they said, "there would be trouble"—and they went out.

Q19. Is that all you recall of that meeting now? A. At that time, with those men, yes.

Q20. You gave an affidavit in the case of Albro J. Newton Company, started in the Supreme Court, Kings County, did you not? A. Yes, sir.

Q21. I will ask you to see if that is a copy of the
2460 affidavit which I show you? A. Yes, sir.

Q22. What is the date of that affidavit? A. September 28th, 1910.

Q23. Now, I will ask you to examine that affidavit for the purpose of refreshing your recollection, and tell me what is your best recollection as to the date when this conversation took place? A. Well, the date of the conversation with those two men at that time was the day before the strike was called, and the strike was called on the morning of the 17th, at 10 o'clock.

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Q24. I see in this affidavit you had the conversation as taking place on the 15th day of September, and the strike as taking place on the morning of the 17th. In this affidavit you state that the first conversation took place on the afternoon of the 15th of September? A. Yes, when I came from the meeting.

Q25. And the strike took place on the morning of the 17th? A. Yes, a day more, that might be, too. It struck me that it was the next day, but there may have been another day.

2462

Q26. Well, now, I call your attention to the remarks which you embodied in that affidavit, and I will ask you whether you recall, after refreshing your recollection, whether either of these men said to you that there would be a strike? A. Yes. They said there would be a strike that afternoon.

Q27. You mean, they said it that afternoon. A. Yes, when they spoke to me. That is what he said in fact.

Q28. Did the men actually quit work? A. Not that afternoon.

Q29. Did they later? A. The following day. I thought it was the next day, but if it was two days after—it was ten o'clock in the morning, I came on the job, and the men were all on the street.

2463

Q30. Did you talk with any of them? A. Why, yes, I said: "What does this mean?"

Mr. Mayer: I object to what they said, incompetent, irrelevant, immaterial and hearsay.

Q31. Did they give you any reasons why they quit work?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

2464

Mr. Beattie: Same objection.

A. They said the delegate came there and stopped them.

Mr. Beattie: I move to strike out the answer; hearsay.

Q32. Did you ask them to go back to work? A. I said, "My work has got to go on. If you have any differences, settle it yourself." There was not any delegate there except this man inside.

2465

Q33. What did these men reply to you?

Mr. Mayer: I object.

A. "We have been ordered to stop."

Q34. Did you talk to any other man in this connection at that time? A. And then I went into the building and saw this delegate I had never seen before. I said, "Who are you?"

Q35. What did he say? A. "I have been sent here by Erickson." I said, "Why didn't he come?" "Well," he said, "he could not and he sent me to order the men to stop."

Q36. Do you recall his name? A. No, I do not.

2466

Q37. Did you ever know his name? A. I don't think I heard it, if I did, it did not impress me, because I remember the name Erickson. I don't remember that special man sent that day.

Cross-examination by Mr. Beattie—

XQ38. How many men did you have on the job? A. Carpenters?

men XQ39. Yes? A. I had 17 that day.

called XQ40. Did you hire your work out to a lumper? the 17th? r.

XQ41. You did all the work yourself, and furnished the material yourself? A. Why, Newton furnished the material.

XQ42. Have you had any building since that time? A. Not for myself.

XQ43. For your company? A. No, I have been doing superintending work, but not doing any building since.

XQ44. What do you mean by superintending? A. Looking after work for other people.

XQ45. You mean, you are employed as a superintendent of some jobs? A. Yes, been doing alteration work, and a few jobs like that. 2468

XQ46. Where are you employed now? A. Where am I employed?

XQ47. Yes. As superintendent? A. I superintend work for other people.

XQ48. Under what sort of arrangement is this? A. They pay me so much a day for looking after the work.

XQ49. Who is paying you now for that? A. At present I am not doing anything.

XQ50. When did you last have such an arrangement? A. No arrangement. I refuse to answer any questions of that kind. No arrangement. When people want me to come and look after work, I do it, and they pay me for it. 2469

XQ51. When did people come to you last and ask you to look after work and pay you for it, and where was the work? A. Different parts of the city.

XQ52. Any particular ones? A. Why, I had a job on Lincoln Road and one on President Street.

XQ53. Within this year? A. Yes.

XQ54. Whose trim were you using on those jobs?

2470 A. Well, I was not buying material. I was superintending work for others.

XQ55. Don't you know whose material it was on the job? A. I think that the President Street job was furnished by Alexander. I did not go into that.

XQ56. And the other job? A. And the other work was—very little material—it was Newton's material, but there was very little of that; it was mostly decorating, plumbing, hardwood floors and things like that.

2471 XQ57. Now, on this job on September 17, 1910, was any of the material of the Paine Lumber Company or any of the other complainants in this case on those buildings? A. I could not tell you anything about it. I bought my material from Newton, that is all I know.

XQ58. Well, the names of Paine and the Gould Company, the Morgan Company, or any of these other complainants did not come up in any way in the discussions with these business agents? A. No, sir.

XQ59. You understood it was simply a Newton matter involving only Newton's mill and no other

2472 mill? A. No, sir.

XQ60. How long were your men out of work? A. During the strike?

XQ61. Yes? A. Why, several weeks.

XQ62. Well, did you do anything to get other men on the job as soon as they left? Did not advertise for men, or try in any other way to get men? Did you know from your building operations of

met called own, and this superintendence, and so on,

the 17t your general experience in the building trade

klyn, that there are as many non-union car-

2473

penters as union in that borough? A. I could not say anything about it. I have always hired union men, all my life, and my father before me, and I could not tell you.

XQ63. Is it your idea that the union men are a better class of men? A. I said, I employed union men. I could not tell you anything more about that, that I employed union men, always have throughout the jobs, and don't know anything about non-union men. They are good men, I suppose. There is no reason why a man should not probably have some reasons for not being in the union.

2474

XQ64. Haven't you some reason for always employing union men? A. We have to, because our work would go along smoother in different lines, plumbing, etc. We find that it works better.

XQ65. Do you consider them more capable or likely to be more capable than non-union men? A. No, sir.

XQ66. Then you did not make any effort to understand if you could man your job immediately after these men left, with non-union men? A. No. I supposed it would be only a few days and so I waited.

2475

XQ67. You thought they would come back within a few days? A. Yes.

XQ68. Did they come back? A. I can't say the time, perhaps three weeks, something like that.

XQ69. The same men came back? A. Not all of them. They went off on other jobs and did not wait.

XQ70. How much wages were you paying them? A. $4.50 a day.

XQ71. You understood that to be the union rate in Brooklyn? A. That is the union wage.

2476 Frederick B. Norris for Complainant—Cross.

XQ72. At that time? A. Yes.

XQ73. What do you mean by speculative building? A. Well, there are two distinctions, contract building is people who take contracts to build large or small buildings for other people. A speculative builder is a man that builds houses to sell.

XQ74. And you and the other gentlemen that were members of the Builders' Association of Brooklyn are all of the speculative class? A. Yes.

XQ75. Is there an association of those builders who build without intending to sell, also in Brook-
2477 lyn? A. There is an association, or what you might call a Mechanics' & Traders' Association, I believe, comprised of contracting builders.

XQ76. Who are not speculative? A. Well, there are speculative builders in there, I imagine; I don't know, not being a member.

By Mr. Mayer—

XQ77. There is not an organization composed exclusively of speculative builders? A. No.

XQ78. Are you a member of the Brooklyn Builders' Association? A. Yes.

2478 XQ79. Do you know how long this organization of the Mechanics' & Traders' Association has been organized? A. A pretty old concern.

XQ80. As old as yours? A. Older.

XQ81. Do you know how many members they have? A. No.

XQ82. Do you know how many members are in your association? A. Why, at one time I believe there were about a hundred in good standing.

XQ83. Do you know as to the present time how many there are? A. No, I could not say.

XQ84. About 70 or 100? A. I should think say about 70 or 80. Maybe more.

XQ85. Didn't you get from time to time lists of union mills from anybody before you started this building operation? Have you seen such lists that have been issued prior? A. There were some lists shown during the time of this strike, that is, some sort of a card sent around; I did not pay any attention to it.

XQ86. Hadn't you seen such cards before you came on this building? A. No, sir.

XQ87. You had not any reason to assume that the union mills could not supply your needs on buildings, did you? A. I did not think anything about it. I have been buying material of Newton, that's all.

XQ88. Had you invariably on other buildings bought Newton's trim? A. Yes, for some years.

XQ89. Do you know the Newtons? A. Yes.

XQ90. How long have you known them? A. Oh, off and on for a great many years. I have bought material from different places.

XQ91. Have you bought material from Newton since September 17, 1910? A. As I was saying, rough lumber, in June or July.

By Mr. Maloney—

XQ92. That was not for yourself, that was as superintendent of these other places? A. The superintending place I had nothing to do with, that material came from the Alexander's, I believe; but after that, I had an alteration job, it was a big piazza, and it was all rough lumber right from the lumber yards.

XQ93. Did you attend the meetings of the Build-

ers' Association in Brooklyn with regard to conferences as to this Newton trim that Mr. Maguire has testified about? A. The strike meetings?

XQ94. The meetings of your association with representatives of the union? Did you attend those meetings? A. Yes.

XQ95. The Arbitration Committee meeting? A Yes.

By Mr. Beattie—

XQ96. Was your association accustomed to arbi-
2483 trate differences with the union? A. Yes.

XQ97. This difficulty you could not arbitrate? A. No.

XQ98. How far was your association willing to go in that arbitration?

Mr. Merritt: I object to the question as entirely too vague.

A. I don't know that I could answer that.

XQ99. Where did you clash on it? Weren't you willing to concede something and the union willing to concede something? A. I can't tell you.

XQ100. Weren't you willing to help out the car-
2484 penters in their position—I believe Mr. Maguire said something to that effect?

Mr. Merritt: Mr. Maguire said no such thing. I ask that the question be made definite, so that the witness will know as to whether he is testifying as to himself individually or as to the wishes of the members of the association.

Mr. Maloney: Mr. Maguire testified that they were willing to.

Mr. Merritt: He testified that they were under an agreement not to use non-union men.

2485

A. Yes. We would not do that.

XQ101. Why wouldn't you do that? A. Why, the mills in Brooklyn are all non-union; I did not see any reason why we should go into that, as far as I know.

XQ102. Is that the only reason? A. Yes, as far as I know.

XQ103. You had agreed not to employ non-union men, had you? How is that?

XQ104. You had agreed not to employ non-union men? A. Why, certainly, I never used anything else in my lifetime.

2486

XQ105. And you know the union carpenters made union mill products, through their own members, didn't you? A. I can't answer that question only in this way: That I have always been under the impression that all the mills in Brooklyn were non-union, and I guess I am right.

XQ106. Didn't you know the only union mills anywhere were manned by members of the Brotherhood of Carpenters? A. I did not know of any union mills.

XQ107. You don't know of any now? A. No, sir; I do not.

2487

XQ108. Don't you know that the master carpenters in Manhattan don't use anything but union material? A. I don't know anything about Manhattan at all.

XQ109. You don't build over here? A. No, sir; never have.

By Mr. Maloney—

XQ110. Did you attend the meetings of the Arbitration Committee, Mr. Norris? A. Yes, sir.

XQ111. Were you a member of the committee,

or did you attend merely as a member of the association? A. As a member of the association? A. As a member of the association.

XQ112. And the association members were present at the conferences between the Arbitration Committee and the representatives of the carpenters? And there were two meetings of that character, weren't there? A. Well, I think there were more than that, but I think one or two I did not attend; I think there were more than two.

XQ113. Were you present at the one where the
2489 men proposed, the union men, that the association should agree to use only material made by the union men in the shops, members of their union? A. I don't think they ever made that remark.

XQ114. Mr. McGuire testified in substance that they wanted the members of the association to agree to use only the union material? A. Yes, that is right.

XQ115. And then, in that case, they would go on and complete the jobs? A. Yes, I think that is right.

XQ116. What was the reason that the parties could not agree on that? Was there any reason, or
2490 did it just peter out? A. Well, I really cannot give you that reason.

XQ117. Mr. Maguire also testified in substance that there were lists exhibited to him by the union men where union material could be purchased? A. I believe that one or two did get a list, but I did not get any.

XQ118. Was your job in Lincoln Road completed? Did you go and complete it—where this strike took place? A. After it was settled.

XQ119. It was settled, was it? Did the men go

back to work? A. I was idle three or four weeks.

XQ120. And then the work was completed? A. Finally.

XQ121. Where did you get the men, the carpenters? A. They came around, not all my old hands; some of the old hands came back, but the majority did not come back.

XQ122. The work on the building, other than the carpenters work, was going on right along? A. No, sir; there was not anything doing at all.

XQ123. Well, then, was there anything but carpenters working, carpenters work, going on in the 2492
building when it first started to strike? A. The entire labor was carpenter.

XQ124. You say your firm is Frederick B. Norris & Company ? A. No. Frederick B. Norris Company.

XQ125. How long after this strike were the houses completed? A. Why, I had three of them completed about the first of the year.

XQ126. Mr. Norris, there was no feeling of any kind, any animosity, hard words, or quarreling, or anything of that sort, was there, on the part of you and the men? A. My men?

XQ127. These men who came there, these dele- 2493
gates of the carpenters? A. There was only one delegate.

XQ128. He did not show any feeling or animosity at all? A. Oh, yes; I thought it was a very sudden affair to come and take the men out of the building without giving me any notice.

XQ129. There was not any quarreling about it, no feeling on his part, he made no threats, or anything of that sort? A. Why, yes; he told me he was

going to take the men out, and he did, and he said they would stay out.

XQ130. Aside from that, there was no violence, no threat of any kind? A. I cannot say that, no.

XQ131. And you had no hard words with him at all ? A. Yes, I did.

XQ132. But none on his part, except to answer back that he would take the men out? A. That's it. You see, I was in a bad position. I had three houses sold under contract and it meant a great loss to me.

XQ133. I understand that. Did you speak to
2495 Newton about it? A. In what way?

XQ134. In any way? A. About the job stopping?

XQ135. Yes? A. Well, I certainly called him up and asked him, and he said other work was stopped too, and that is about all there was to it.

XQ136. Did he say anything to you about the American Anti-Boycott Association? A. No.

XQ137. Did he say they were members of it? A. No.

XQ138. Where did you go when you made this affidavit in this Newton suit? A. Over to Mr. Merritt's office.

2496 XQ139. And had you heard of the American Anti-Boycott Association before that time? A. No.

XQ140. Did you hear about it then? A. I don't remember of knowing of it in those terms, I only knew it in Mr. Merritt's office when we were all there and made the statement.

XQ141. How did you come to go to Mr. Merritt's office? Was it at Mr. Newton's request? A. I think it was.

2497

XQ142. Is Newton a friend of yours? A. A business acquaintance.

XQ143. How many years? A. Oh, a great many, off and on.

XQ144. Do you know Bossert, too? A. Yes, sir.

XQ145. Did you make an affidavit in an action brought by Bossert? A. No, sir.

XQ145. Did you refuse to make one there? A. I was not asked.

By Mr. Beattie—

2498

XQ147. Did you tell the carpenters that you employed that they were expected to work on Newton trim, and that Newton trim was non-union when you employed them? A. We don't say anything about those things at all.

XQ148. Was there anything on the Newton trim to indicate where it was made? A. No, sir.

XQ149. It is not marked "Newton & Co.," or anything like that? A. There is nothing on it, except on the wagons delivering it, that's all.

By Mr. Merritt—

2499

RDQ150. You spoke about a list of concerns which some of the carpenters' representatives exhibited at that meeting, as concerns who could supply union material? A. Yes, sir.

RDQ151. I show you what purports to be a pamphlet containing a list, and ask you whether or not that is the type of circular? A. Yes, that was passed around at the meeting, and I saw something of that kind, but prior to the meeting I never had one of them at all, but that was the kind shown at that meeting.

Mr. Merritt: I offer that in evidence as Complainant's Exhibit 21.

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, no evidence of it at all.

RDQ152. I don't suppose you can testify positively that that was the same one? A. No, but it is the same wording on on the back that I remember seeing on it.

2501 Mr. Beattie: I object to this going in, as incompetent, irrelevant and immaterial, and as not identified by the witness.

A. Yes, sir, I can identify that.

By Mr. Beattie—

RXQ153. Well, I don't think you can. A. I can't say that that was the book, the one I had.

RXQ154. Is there any name in the book that you can say was in the book you saw? A. I remember this——

RXQ155. Any name of any mill in that book
2502 that you saw in this Exhibit 21, which you saw in the book that was passed around at that meeting? A. Why, I remember seeing the names in this book, of these different ones.

By Mr. Maloney—

RXQ156. Which names? A. Why, I can't say any particular one, except as I remember looking them all over, and reading it at that time, and it passed out of my mind. But that is the style of the book.

2503

By Mr. Beattie—

RXQ157. Don't you know that there are two lists published of two separate sorts of mills? A. No, sir.

RXQ158. And that this Exhibit 21 is not a list of the sort of mills that you buy from? A. I don't know anything about it.

RXQ159. Can you show the name of any manufacturer or any mill in that book that was in the list that was passed around—any one name? A. There was a mill mentioned—Enterman—Morgenthaler—I remember that.

2504

RXQ160. Morgenthaler was in the book you saw? A. Yes, I know that it was in that book, I remember seeing his name and knowing of the people, because he is a neighbor, lives in the street where I am building.

By Mr. Maloney—

RXQ161. You don't find him in that book there, do you? A. Yes, I do, Morgenthaler & Son.

By Mr. Beattie—

2505

RXQ162. Had he a big enough mill to supply the wants of your buildings at times? A. He supplies most of the contracting builders in New York here, as I understand it.

RDQ163. In Manhattan? A. Yes.

RDQ164. And you mean that that name was in the same list that was handed to you? A. As I passed my eye over the book at that time, I remember that there were one or two mills—I remember seeing—one was Enterman—I don't see it now, but

2506 Frederick B. Norris for Complainant—Cross.

I suppose I would if I looked over it. It was a little mill in Bay Ridge there.

RXQ165. You might look over it and see, because I don't think you have got the right list? A. I think it is.

RDQ166. Enterman was in that other list that you did see, though? A. I think he was. I am not sure about that. I don't remember that part about Enterman being there.

RXQ167. Then you are sure that Exhibit 21 was similar to the one—— A. That is the style of the
2507 book that was handed around at that meeting.

By Mr. Maloney—

RXQ168. That is as far as you are willing to go, as to the style of book? A. Yes.

By Mr. Beattie—

RXQ169. I ask you, was this introductory statement addressed to Owners, Architects, Contractors and Builders, in the book you saw? A. I don't remember seeing that.

2508 Mr. Beattie: I ask that that exhibit and the evidence concerning it be stricken out.

Mr. Merritt: I will withdraw that as an exhibit in evidence and offer it as Complainants' Exhibit 21 for Identification.

By Mr. Maloney—

RXQ170. Was this at the time of the strike, that the book you referred to was passed around? A. During the meeting of the Builders' Association.

Mr. Mayer: I move to strike out all the

2509

testimony of this witness on the ground that it concerns a particular operation involving Newton trim only, and in no way connected with the issues in this case, and in no way connected with the controversy here, and as incompetent, irrelevant and immaterial, generally, and as hearsay; also on the ground that the complainants are no involved in any of the testimony of this witness.

Mr. Beattie: Same motion.

2510

By Mr. Maloney—

RXQ171. This list also purports to cover the minutes of September and October, 1910. It probably was not out at that time. A. September is during the strike.

RXQ172. September and October it covers. It is printed for September and October, and the strike was called on the 17th of September, so it is not likely that this particular book, which was marked for identification, was out at all.

Mr. Merritt: That is purely argumentative; the circular speaks for itself as September and October.

2511

A. That I can't answer, I don't think I am competent to answer when it was made. I know that was the style of book that was handed around, of that character, during that strike.

Subscribed and sworn to before me this day of , 1912.

Adjourned until 2 p. m.

2512 Frederick B. Norris for Complainant—Cross.

EXHIBIT 21 FOR IDENTIFICATION.

FRONT COVER.

Important to Builders.
Sept.-October, 1910.
Subject to Monthly Changes.
List of N. Y. CITY and vicinity
UNION MILLS and MANUFACTURERS of
INTERIOR WOOD WORK,
DECORATIONS, STAIRS, TRIM,
2513 PARQUET FLOORING, WOOD TURNING,
STORE, OFFICE AND BAR
FIXTURES.
Geo. J. Speyer (LABEL) 183 William St.

—o—

FIRST PAGE.

TO OWNERS, ARCHITECTS, CONTRACTORS AND BUILDERS OF NEW YORK CITY AND VICINITY.

Gentlemen:

In order to avoid any labor trouble on jobs you are interested in, we deem it necessary to
2514 request you to stipulate in all your contracts a clause guaranteeing the employment of recognized Union Men; also a clause requiring in he execution of all contracts for Carpenter Work, the employment of Union-made Trim, Mantels, Parquet-flooring, and other shopmade Carpenter work. This applies particularly to all classes of Kalameined and Metal-covered work.

We desire to inform you, that unless this material has been constructed under strict

 2515

Union conditions, we shall refuse to handle it.

It being a well-known fact that the agents of unfair and non-union firms resort to misstatements in order to obtain contracts in this City, we recommend that before placing contracts with any firm you communicate with this Organization regarding the Union standing of said firm.

PAGE TWO.

Stipulating in your contract that your trim, 2516
etc., must bear this Union Label:

District Council of New York and Vicinity.

UNION-MADE
(Shield)
United Brotherhood of Carpenters and
Joiners of America.
Organized 1881. Registered Feb. 1900.
State of New York.
No. 41,278. Factory No. 71.

2517

will avoid all complications.

We respectfully call your attention to the following firms, Manufacturers of Interior Woodwork, etc., who are working under an agreement with this District Council.

This list is, however, subject to revision monthly, and contracts let therefrom will only be protected, if let within the month for which the list is issued, or if stipulated as a condition of acceptance the above Union Label on the work.

2518 Frederick B. Norris for Complainant—Cross.

Later lists can be obtained on application to
E. H. NEAL, Sec'y,
142-144 E. 59th St.
'Phone 2021 Plaza.

PAGE THREE.

Manufacturers of Architectural Woodwork, Cabinet Decorations and Trim.

2519 Office. Shop.
Abramson-Engesser Co., 1969 1st Ave.
Alavoine & Co., 42 W. 43rd St., 321 E. 44th St.
C. F. Albert, 325 E. 64th St., 325 E. 64th St.
F. Amman, Ave. D and 11th St.
M. Bartos, 479 1st Ave.
W. Baumgarten & Co., 323 5th Ave., 238 E. 44th St.
Brunswick-Balke-Collender Co., 31 W. 32d St., Shop: Review Ave., L. I. City.
Andrew Burhenne, 319 E. 64th St.
Cottier & Co., 3 E. 40th St., 207 E. 49th St.
C. Doering, 259 W. 27th St.
2520 John J. Downey, 410 West 34th St.
F. Esperson, 312 E. 75th St.
Eureka Wood Working Co., 318-320 E. 75th St.
Feigin & Lagana, 400 Smith St., Brooklyn.
R. B. Ferguson, Lee Ave. & Wallabout St., B'klyn.
Hamilton Bell & Co., 18 E. 41st St., 535 W. 53rd St.
W. H. Hand Sons, Park Ave., near 140th St.
L. Hartung, 318 E. 95th St.
D. S. Hess & Co., 453 Fifth Ave., 507 E. 72d St.

Frederick B. Norris for Complainant—Cross. 2521

J. C. Hoe & Sons, 52 Gansevourt St. & 10 Liberty Pl.
Th. Hofstaetter & Co., 589 5th Ave., 642 W. 54th St.
Hoggson Bros., 7 East 44th St., 372 2nd Ave.
H. F. Huber & Co., 382 5th Ave., 18th St. & Ave. C.
Johnson & Shervin, 517 E. 137th St.
Wm. Keck Co., 319 E. 64th St.
A. Kimbel Sons, 12 W. 40th St., 458 10th Ave.
P. Lauckhardt, 173 Clinton St., Bklyn., 400 Smith St., Bklyn. 2522
L. Licht, 323 E. 22d St.
P. E. Lindblad & Co., 103 Park Ave., West & Java Sts., Greenpoint.
H. C. J. Lohse, 514 W. 56th St.
Manhattan Wood Working Co., Rider Ave. & 139th St.
L. Marcotte & Co., 12 W. 36th St., 156 W. 32d St.
W. H. Maybeck, 276 9th Ave.

PAGE FOUR.

J. Morganthaler Sons, 633 Sackett St., Brooklyn. 2523
A. Mortensen, 516-518 Hamilton Ave., Kklyn.
Mount & Robertson, 28 Beaver St., Bleecker & W. 11th St.
N. Passman, 811-17 9th St.
Pottier & Stymus, 375 Lexington Ave.
E. Pillon, 159 E. 88th St.
The Ravenswood Co., Ravenswood, L. I.
J. & W. Robb, 245 W. 28th St.
B. Ruemmler, 367 W. 11th St.
Salom & Wuthe, 521 E. 72d St.

2524 Frederick B. Norris for Complainant—Cross.

F. Schaettler, 533-537 W. 34th St.
W. L. Schultze & Co., 230 E. 37th St.
Sloan & Moller, 331 East 65th St.
Strand Construction Co., 556 W. 52d St.
Wm. H. Smith, Guernesey St., Greenpoint, L. I.
Tiedt & Markthaler, 276 9th Ave.
Van Kannel, Revolving Door Co., 134th St. and Lincoln Ave., Bronx.
T. D. Wadelton, 160 5th Ave., Tukahoe, N. Y.
A. Wick, 276 9th Ave.

2525 Worn & Co., 73 George St., Brooklyn.

PAGE FIVE.

MANUFACTURERS OF SASH, DOORS AND TRIM.

John H. Carl, 510 1st Ave.
Fries, L. P., Westchester, N. Y.
Wm. Hand Sons, Park Ave. and 140th St.
J. C. Hoe & Sons, 52 Gansevourt St.
J. Marcus Wood Working Co., Williamsbridge.
J. Morganthaler Sons, 633 Sackett St., Brooklyn.

2526

Morris & Morris, 37-39 DeKalb Ave., Brooklyn.
A. Mortenson, 516-518 Hamilton Ave., Brooklyn.
Sloan & Moller, 331 E. 65th St.
H. J. Smith & Sons, 256 St. James Pl., Bklyn.
W. C. Schoening, Cooper & Forstik Ave., Glendale, L. I.
J. J. Short, 276 9th Ave.
W. Smith, Guernsey St., Brooklyn.

Frederick B. Norris for Complainant—Cross. 2527

L. Steingotter & Co., 13-19 Thames Street, Brooklyn.
W. S. Van Cliff Mill, Port Richmond.
H. H. Vought & Co., Williamsbridge.
A. Wick, 276 Ninth Ave.

CHURCH AND OTHER FURNITURE MANUFACTURERS.

M. Bartos, 479 1st Ave.
Jacob Dieter & Sons, 70 Bedford St.
F. Esperson, 312 East 75th St.
Hamilton & Bell, 535 W. 53rd St. 2528
Koopman & Co., 324 5th Ave., shop 44th St. and 10th Ave.
J. & R. Lamb, 59 Carmine St.
W. H. Maybeck, 276 9th Ave.
W. L. Schultze & Co., 230 E. 37th St.

PAGE SIX.

CARPENTERS, BUILDERS AND MANUFACTURERS.

H. A. Ackerly, N. 4th and Berry Sts., Brooklyn.
Frank Amman, Avenue D and 11th Sts. 2529
Robert Christie, 122 West 29th St.
John J. Downey, 407 W. 4th St.
John L. Hamilton Sons, 437 W. 26th St.
V. J. Hedden & Sons, No. 1 Madison Ave. Shop: Newark, N. J.
James C. Hoe Sons, 52 Gansevoort St., and 10 Liberty Pl.
A. G. Imhof, 249 West 18th St.
Joseph Jewkes & Sons Co., 676 Montgomery St., Jersey City.

2530 Frederick B. Norris for Complainant—Cross.

Johnson & Shervin, 517 E. 137th St.
R. Kennedy, 617 10th Ave.
Wm. E. Smith, 85 Guernesey St., Greenpoint.
Donald Mitchell, 302 West 53rd St.
Sloan and Moller, 331 East 65th St.
Mount and Robertson, 28 Beaver St., and Bleecker and W. 11th St.
Morris & Morris, 37-39 De Kalb Ave., Brooklyn.
David Morrisson, 119 W. 3rd St.
Peter Roberts Co., 35 Sullivan St.

2531 Dan. Ryan, 3rd Ave. and 23rd St., Brooklyn.
Thos. O'Rourke, 39th St., near 3rd Ave., Brooklyn.
H. G. Smith & Son, 256 St. James Pl., Brooklyn.
Southern & Marshall, 247 E. 43rd St.
Springsted & Adamson, 434 E. 107th St.
John Thatcher & Sons, 60 Park Ave., Brooklyn.
Tidewater Co., 511 W. 30th St.
Watt and Sinclair, 160 5th Ave. Shop: 358 Sherman St., Astoria, L. I.
J. D. Whitenack, 231 W. 18th St.

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PAGE SEVEN.

BANK, DRUG STORE AND GENERAL STORE FIXTURE MANUFACTURERS.

Frank Amman, Avenue D and 11th St.
Andrew Burhenne, 319 E. 64th St.
Barr & Gruber, 210 Bowery.
Brunswick-Balke-Collender Co., 31 W. 32d St. Shop: Review Ave., L. I. City.
Jacob Dieter & Sons, 70 Bedford St.

Frederick B. Norris for Complainant—Cross. 2533

C. Doering, 259 W. 27th St.
Ehler & O'Keefe, 271 Washington St., Brooklyn.
W. C. Engelhardt, Lexington Ave. & B'way., Bklyn.
F. Esperson, 312 75th St.
Eureka Wood Working Co,. 318-320 E. 75th St.
Excelsior Wood Working Co., 212 E. 37th St.
Jacob Froehlich, 155th St. and So. Boulevard.
Greiner Const. Co., Dodworth St., near Broadway, Brooklyn. 2534
A. M. Hegelman, 262 Johnson Ave., Brooklyn.
L. Kern, 422 E. 92nd St.
K. J. Kirsch, 532 Bushwick Ave., Brooklyn.
P. E. Lindblad & Co., 103 Park Ave. (Shop, West and Java Sts., Greenpoint).
R. Lorenz, Ralph St., Ridgewood Heights.
Manhattan Cabinet Works, 102 Engert Ave., Brooklyn.
Chas. Melishek, 128 Maiden Lane.
Henry Mock & Co., Ave. A and 95th St.
Mount and Robertson, Bleecker & W. 11th Sts.
J. P. Nilson, 444 W. 14th St.
John Radke, Ralph and Irving Sts., Brooklyn. 2535
C. Rieger Sons, 648 E. 148th St.
J. W. Robb, 245 W. 28th St.
Roth & Co., 23rd St. and 1st Ave.
E. Schaettler, 533 W. 34th St.
H. S. Scott Co., 400 Adelphi St., Brooklyn.
W. C. Schoening, Cooper & Forstik Ave., Glendale, L. I.
Seger & Gross Co., 42 West 67th St.
Siegel Cooper Co., 251 W. 17th St.
Alois Staudt, 162 E. 52nd St.

2536 Frederick B. Norris for Complainant—Cross.

L. Steingoetter & Co., 13-19 Thames St., Bklyn.
Tiedt & Markthaler, 276 9th Ave.
B. Zicherman, 8 2nd St.

EIGHTH PAGE.

MANUFACTURERS OF PARQUET FLOORING.

Flexible Parquet Floor Co., Office 23 W. 42nd St. Shop: 309 Kingsland Ave., Brooklyn.
2537 L. A. Hartung, 312-318 E. 95th St.
Hasbrouck & Co., 501 E. 70th St.
C. W. Koch & Son, Office 450 5th Ave. Shop: 547 W. 53rd St.
McBride, 139th and Rider Ave.
Chas. A. Pope, 320 E. 95th St.
United Parquet Floor Co., 310 E. 96th St.

MANUFACTURERS OF METAL COVERED SASH, DOOR AND TRIM.

H. A. Akerly, N. 4th and Berry Sts., Brooklyn.
2538 J. Blanchard, 229 Borden Ave., L. I. City.
Brooklyn Fire Proof Door and Sash Co., 101 Richardson St., Brooklyn.
Champion Fire Proof Door Co., 277 Rider Ave.
Coleman & Kraus, 515 W. 29th St.
A. J. Ellis, West New York, N. J.
The Globe Fire Proof Door and Sash Co., 2650 Park Avenue.
Herman & Grace, 761-783 Bergen St., Brooklyn.

Frederick B. Norris for Complainant—Cross. 2539

Hertsch Bros., 169th St. and Jerome Ave., Bronx.
Howell, Lawrence, 402 E. 93rd St.
Knoburn Co., 14th St., Hoboken, N. J., Office 27 E. 22nd St.
Leonard Sheet Metal Works, Grand St., Hoboken, N. J.
Manhattan Fire Proof Door Co., 412 East 125th St.
J. C. McFarland & Co., 215 E. 44th St.
The Oriental Fire Proof Door and Sash Co., 721 E. 133d St. 2540
J. W. Rapp, Office, 1 Madison Ave. Shop: College Point, L. I.
Reliance Fireproof Sash and Door Co., Milton and West Sts., Greenpoint.
Standard Fireproof Door Co., 182 Diamond St., Brooklyn.
Union Firepr. Sash & Door Co., Leonard St., Greenpoint.
United Metal Covered Door and Sash Co., 175th St. and Park Avenue.
M. F. Westergren, inc., 217-221 E. 144th St.

2541

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STAIR BUILDERS.

Alfred Anderson, 901 Macon St., Bklyn.
Theodore Beckler, 1115 Boston Road.
A. W. Berckmeier, 426 Troutman St., Brooklyn.
C. M. Bierschenk, 239 Greenpoint Ave., Bklyn.
Christie Bros., 510 West 24th Street.
Wm. Cottrell, 625 Degrow St., Brooklyn.

2542 Frederick B. Norris for Complainant—Cross.

Chas. Denig, Bleecker St. & Covert Ave., Ridgew'd.
Geo. Eckert, 151 West St., Greenpoint, Brooklyn.
Fransen & Olsen, Rosebank, St. I.
Halpern & Drucker, 1018 Lafayette Ave., Brooklyn.
Heil Bros., 228 E. 150th Street.
Wm. Henninger, 307 Kingsland Ave., Bklyn.
Frank Hockin, 107-9 Pine Street, Brooklyn.
H. H. Kellerman & Bros., 195 Woodbine St.,
2543 Bklyn.
Lauterbach Bros., Stapleton, S. I.
Chas. Linquist, Port Richmond, S. I.
Manhattan Stair Co., 304 Front St.
McDonald & Fracer, 11 Lexington Ave., Brooklyn.
H. H. Meise, 192 Southern Boulevard, Bronx.
Thos. B. Minoter, 418 3rd Ave., Brooklyn.
Mofsenson & Cohen, 218 Cherry Street.
Joseph L. O'Neil, 460 Warren Street, Brooklyn.
Otto Nilson, 626 Westchester Ave., Bronx.
William Ose, 355 West 42d Street.
2544 S. Pearson, Terrace Pl. near Gravesend Ave., Bklyn.
Peterson & Anderson, 1512 Fulton St., Brooklyn.
Reid & Jaeger, 319 E. 64th Street.
E. Reiss & Co., 74th St. near 4th Ave.
Thomas Smith, 37th St. and 13th Ave., Brooklyn.
Geo. Speath, 162d St. and Westchester Ave.
H. Speir, 512 70th St., bet. 5th and 6th Aves., Bklyn.

Frederick B. Norris for Complainant—Cross. 2545

Barnet Stein, 720 Stone Ave., Brooklyn.
James Taylor, Stapleton, S. I.
J. Trumfeller, 329-31 9th Ave., Long Island City.
J. J. Wallace & Co., 637 E. 18th Street.
Fred. Weber, E. 12th St. and New Kirk Ave., Brooklyn.
A. S. Wright, Park Ave., bet. 178th and 179th Sts.
L. Vinton & Sons, 219 Franklin Ave., Mt. Vernon.

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BAR FIXTURES MANUFACTURERS.

Brunswick-Balke-Collender Co., 31 W. 32d St. Shop: Review Ave., L. I. City.
Englehardt, W. C., Lexington Ave. and Broadway, Brooklyn.
Froehlich, Jacob, 155th St. and So. Boulevard.
Greiner Const. Co., Dodworth St., near Broadway, Brooklyn.
L. Kern, 422 E. 92d Street.
Manhattan Cabinet Works, 102 Engert Ave., Bklyn. 2547
Mock & Co., Henry, Avenue A and 95th Street.
Rieger Sons, C., 648 E. 148th Street.
Schoening, W. C., Cooper and Forstik Avenues, Glendale, L. I.
Worn & Co., W. F., 73 George Street, Brooklyn.

2548 Frederick B. Norris for Complainant—Cross.

REFRIGERATORS AND ICE BOXES.

L. Barth, 32 Cooper Sq., shop 44th St. & 12th Ave.
Brunswick-Balke-Collender Co., 31 W. 32nd St. Shop: Review Ave., L. I. City.
Dubois Mfg. Co., 39 Wooster St.
Engelhardt, W. C., Lexington Ave. and Broadway, Brooklyn.
John P. Nilson, 444 W. 14th St.
Lorillard Refrigerating Co., office 23 W. 34th St. Shop: Mount Vernon.
2549
Manhattan Cabinet Works, 102 Engert Ave., Brooklyn.
Wm. White, 78 Barrow Street.
S. A. Wissmann, 707 First Ave.

BUTCHER FIXTURES AND ICE HOUSE BUILDERS.

Thos. Farrell, 626 10th Ave.
P. & M. Hegelman, 262 Johnson Ave., Brooklyn.
Chas. Helwege, 63 Gansevoort St.
James McLean, 510 W. 34th St.
2550
John P. Nilson, 444 W. 14th St.
Geo. Peppel, 51 Washington Ave., Brooklyn.
W. V. Staib & Co., 646 Atlantic Ave., Brooklyn.
A. C. Wicke Mfg. Co., 406 E. 102d St.

BOWLING ALLEYS AND BILLIARD TABLES.

Brunswick-Balke-Collender Co., 31 W. 32nd St. Shop: Review Ave., L. I. City.

Charles R. Macaulay for Complainant—Direct. 2551

BACK COVER.

This List contains only such Union Shops as have their own Machinery.

District Council of New York and Vicinity.
Union Made
(Shield)
United Brotherhood of Carpenters and Joiners of America.
Organized 1881. Registered Feb. 1900.
State of New York.

2552

DEMAND THIS LABEL ON YOUR WORK.

PAINE vs. NEAL.

December 19th, 2 p. m.

PRESENT:

COMMISSIONER SHIELDS,
WALTER GORDON MERRITT,
CHARLES MAITLAND BEATTIE,
WILLIAM P. MALONEY,
F. B. WHITTAKER.

2553

CHARLES R. MACAULAY, a witness called on behalf of complainant, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Charles R. Macaulay.

Q2. And your age, please? A. Forty-six.

Q3. What is your business? A. Jobber and

2554 Charles R. Macaulay for Complainant—Direct.

manufacturer in sash, blinds, doors, trim, and mouldings and glass.

Q4. And your place of business is in 18th Street? A. 18th Street near 5th Avenue, Brooklyn.

Q5. Is it a corporation? A. Individual.

Q6. How long have you been so engaged in business? A. Established in 1888.

Q7. You are the proprietor of the business? A. I am the proprietor, yes, sir.

Q8. In the course of your business, you purchase merchandise from the R. McMillen Company, do
2555 you not? A. Yes, sir.

Q9. Have you brought with you figures by which you can testify as to the amount of business done with the R. McMillen Company in the last few years? A. I have taken a synopsis from the ledger column. I can give you the totals each month or each year.

Q10. Just give me the totals each year.

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

A. 1908, our purchases from R. McMillen Com-
2556 pany, of Oshkosh, Wisconsin, was $17,639.25; 1909 it was $50,824.52; 1910 it was $45,991.16; 1911, up to November 1st, it was $19,396.19.

Q11. And do those figures represent the amount of business you did with R. McMillen Company during those years? A. It represents the amount of their bills to me for goods purchased during that period.

Q12. Were those purchases mostly doors, or what were they? A. Hardwood doors, sash, window sash, blinds, trim and mouldings.

Q13. Could you state in a general way what proportion of it was in doors? A. Seventy-five per cent of the amounts were purchases in doors. They used sash, blinds and trim as a filler for the cars.

Q14. Have you ever done business with the Curtis & Yale Company? A. We have only had one transaction during the past year, one carload; they have more orders for us on hand now.

Q15. What is the business they did in the last year? A. That only amounted to $1,384.27.

Q16. When was that purchase made? A. Billed in December; we received it in January of this 2558 year.

Q17. Do you operate what is known as a union shop? Or an open shop? A. Open shop.

Q18. About how many men do you employ in the manufacturing end? A. Sixty-five or seventy-five. Excuse me, that includes the glass business, too, as well as the sash, blinds and doors.

Q19. Well, about how many would it be fair to state that you employ for the manufacturing of woodwork? A. Not more than half of that number, thirty to forty.

Q20. Do you employ salesmen to dispose of the 2559 merchandise you purchase? A. Yes, sir.

Q21. And what merchandise do you manufacture? A. We only manufacture special materials, special orders, we make a specialty of selling all stock material and stock sizes of sash, blinds, doors, trim; we manufacture about 5% of our output.

Q22. Well, about 95% of your business is jobbing business? A. Jobbing for the trade. We are known as a supply house for the trade, in fact, the only supply house to-day in Greater New York.

Q23. Do you sell merchandise on the Island of Manhattan? A. Some.

Q24. Do you talk to your customers at times concerning the conditions? A. Very often, yes, sir.

Q25. Well, do you come in personal contact with your customers? A. With some of them, yes, sir.

Q26. Are you familiar with the general conditions which prevail in Manhattan, in the trade? A. I am, yes, sir.

Q27. And in Brooklyn? A. Yes, sir.

Q28. I will ask you, based on this experience, did
2561 you have any difficulty in disposing of your non-union material on the Island of Manhattan?

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, no sufficient foundation for any such opinion.

A. I do, in the majority of cases, have to sell under cover, taking the marks off the goods, in order that the customers can use them and deliver them.

Q29. How do the conditions in Brooklyn compare in this regard? A. No trouble at all. They
2562 use our goods without any complaint, never any objections to handling them.

Cross-examination by Mr. Beattie—

XQ30. Do you know tha tthe Master Carpenters of the City of New York had made an agreement among themselves not to buy non-union material, such as you handle? A. I understood that to be a fact, for the reason that——

XQ31. I don't want the reason. When you sell under cover, is it to deceive these men who have

agreed among themselves not to buy non-union material, or what is the reason for it? A. By request of the purchaser.

XQ32. What purchaser do you refer to? A. I will not commit myself.

XQ33. Have you sold under cover and taken the marks off your goods for more than one customer in Manhattan? A. Yes, sir.

XQ34. Within the past year? A. Yes, sir.

XQ35. And in Brooklyn, too? A. Most every week we are doing it.

XQ36. In Brooklyn? A. No, not in Brooklyn. 2564

XQ37. In Manhattan, exclusively? A. In Manhattan, exclusively.

XQ38. And what sort of goods did you take the marks off? A. Principally doors, there are no marks on sash or blinds.

XQ39. Do any marks come on trim? A. No.

XQ40. Then carpenters handling any of the material that you send over to Manhattan under such orders, could not ascertain whether it was union made or not, could they? A. I don't see why they should not.

XQ41. Well, what is the purpose of taking off these marks and selling under cover? A. So that 2565 they would not know where the doors came from.

XQ42. And yet you don't know why they should not know where they came from? A. For the reason that they would not put them up or hang them if they knew who they did come from.

XQ43. The carpenters handling this material, that you have sold them under cover and taken the marks off, could not ascertain from what mills they came, could they? A. No.

XQ44. And that is your purpose in selling them

under cover and taking the marks off? A. That may be the purpose of the purchaser.

XQ45. Well, you say you are familiar with the conditions here in Manhattan. You said that to Mr. Merritt. A. Yes. I am given to understand that if the marks are on the door, they can tell whose doors they are, and they will not put them up and will not use them. For that reason they make a request of me to remove all marks and sizes.

XQ46. Has there been a business depression in
2567 the building line in New York City generally during the last year or so? A. Markedly so, in comparison with my purchases in 1910, they amounted to $47,000, in 1909, $50,000, in 1911, up to November 1, only $19,000.

XQ47. You attribute that wholly to the depression in the building trades in this city? A. No, sir. I attribute it to the manufacturers of sash and blind materials in Manhattan not being able to use stock material.

XQ48. How much of it do you attribute to the business depression, and how much to the other? A. Our business at present is as busy as ever we
2568 were, in fact, we are doing twice the business in other sections now that we did a year ago, and working overtime, but not in Manhattan.

XQ49. Are you in Brooklyn? A. Yes, sir, Brooklyn, Jersey, Long Island and Connecticut, and through all parts of New York State.

XQ50. You are doing a larger business in 1911 than you did in 1910? A. In those sections?

XQ51. In those sections? A. Yes, sir.

XQ52. Well, has there been any difference in your business in Manhattan since May last? A. All

this year we have been practically shut out of Manhattan with a few exceptions of where the sash and blind men are purchasing under cover. 2569

XQ53. And that has occurred since May last of this year, as well as before? A. All of this year.

XQ54. Did you call the attention of any of these people that you had an injunction in favor of the McMillen Company and Curtis & Yale Company since May last or about then? A. I have no injunction, sir.

XQ55. Well, did you call the attention of any of these people to the fact that the people you are testifying now for, the Curtis & Yale Company, or the McMillen Company, had such an injunction, that we were obliged to put the material of these non-union mills up? A. I don't recall that the question ever came up, sir. 2570

XQ56. What are you paying these forty carpenters in your mill? A. I can't recall by memory, sir, what we are paying them, different scales.

XQ57. From what to what? A. Why, we are paying them from twenty-six cents to forty cents an hour.

XQ58. How many hours a day do you work them? Have you got a regular time? A. I am trying to recall from memory; fifty-four and a half hours a week. 2571

XQ59. What is the union rate, do you know, in Brooklyn? A. I don't know.

XQ60. You know that it is much longer than union hours? A. I don't know.

XQ61. Don't you think it is? A. I have never consulted.

XQ62. Would you like to have that instruction

now? A. I have never been approached on the subject.

XQ63. Well, you run a non-union mill and you handle only non-union stuff, is that right? A. I have never questioned that, sir. I have an open shop. I never question whether a man is a union man or not when I employ him.

XQ64. You know your mill is classed as non-union in the trade? A. I believe it is classed as an open shop, because there is no union in it that I know of.

2573 XQ65. Is there any difference between a non-union shop and an open shop? A. I don't think so.

XQ66. Then, as to the other part of the question, do you buy anything but non-union material in your jobbing business? A. Why, I know I have bought considerable doors from the Gilmore Door Company. I understand they are union.

XQ67. When did you do that? A. I have been buying from them for the last four or five years.

XQ68. During the last four or five years, then, were all the doors, blinds, sash, etc., and trim that you have bought, been non-union? A. Not what I bought from them, no.

2574 XQ69. Since, during the last four or five years? A. I have bought during the last four or five years from them.

XQ70. Well, how long ago is it since you bought from them? A. The middle of last year.

XQ71. Will you give us the figures on your purchases from that concern since 1908? A. I have not got them with me, sir.

XQ72. You only prepared a list of purchases from non-union firms? A. I was only instructed to give a list of purchases from plaintiffs in this ac-

2575

tion. I did not understand that they were interested.

XQ73. Where is this Gilmore Company? A. Buffalo, New York.

XQ74. Are you sure they are union? A. Yes, sir.

XQ75. Can't you give us an average of what business you have done with them during the last four or five years, per year? A. They have some orders of mine there now. We have bought probably $8,000 to $10,000 since October, 1910. Our purchases were larger before that.

2576

XQ76. They have been decreasing? A. Decreasing, yes, sir, for the reason that they are going out of business, and they have not been able to supply the demands.

XQ77. When did they go out of business? A. They wound up their mill within this last three months. They have not run the mill in the last three months and they are selling off their stock now as fast as they can.

XQ78. Then for the last three months you have bought nothing but non-union material, is that right? A. No, sir, they have an order of mine there now, for stock material.

2577

XQ79. That is, this Gilmore concern? A. Yes.

XQ80. Outside of this Gilmore concern, who have gone out of business, have you bought any union material from any mill, consisting of trim, doors, sash, blinds? A. I don't know of any other mill that is unionized.

XQ81. You don't know of any other union mills? A. No.

XQ82. Would you like your information in-

creased on that subject? A. Why, yes. Manufacturers, I am talking about manufacturers.

XQ83. And you have not tried to ascertain if the union mills could supply you at as good terms as the McMillen Company or the Curtis & Yale Company? A. This is the first intimation that I knew that there were any manufacturers of sash, blinds and doors that were unionized.

XQ84. Would it make a difference to you if we showed you a list of over 200 such mills in New York, unionized mills? Would that make any dif-
2579 ference to your business, or are you insistent on buying non-union material? A. No, sir, I am not, whichever man can sell me the best goods for the least price, there is my motto.

XQ85. Have you ascertained the prices of anybody else except the McMillen Company or the Curtis & Yale Company? A. I assure you, sir, that we are not after them, but they are after us.

XQ86. Is anyone else after you? A. Most everyone in the trade that has got the ability to manufacture sash, blinds and doors that can sell me.

XQ87. There are no union mill people after you? A. I don't know of any being union mills that
2580 manufacture sash, blinds and doors for stock.

XQ88. Well, these requests that you received from builders in Manhattan to sell under cover and take the marks off the goods, were they in writing? A. Pardon me, but I never made any statement that any builders bought from me goods under cover. I am talking about these sash and blind mills. We sell only to mills in Manhattan, hardly any builder, except it would be a cash transaction.

XQ89. Well, then, make it mill owners. Were these requests from the mill owners of Manhattan

to sell to them under cover and take the marks off the goods, made in writing to you? A. No, sir. Oh, pardon me, I am mistaken. I recall a few instances where they made a request on their order in writing.

XQ90. Will you produce those requests at the next hearing? A. No, sir.

XQ91. Have you received those requests within the past year? A. Yes, sir.

XQ92. And you decline to give any of the names of the mills' owners or state where these mills are who made these requests? A. Yes, sir.

XQ93. You decline to do that? A. I do.

Mr. Beattie: I move that all the evidence of this witness be stricken out because of his refusal to answer these questions.

By Mr. Maloney—

XQ94. Is the Gilmore Door Company the same as what was known as the Iroquois Company, Buffalo? A. No, sir, no connection.

XQ95. Is the Iroquois Door Company a union mill? A. They got no mill, as I know of.

XQ96. When you say you don't know any union mills, you say you don't know any people but manufacturers? A. Manufacture sash, blinds and doors.

XQ97. In a union shop? A. In a union shop. I am not alluding to the small mills in the city here, but to the manufacturers of stock doors, sash and blinds.

XQ98. You are referring only to people who manufacture stock material? A. Stock material.

XQ99. And this difficulty you have had in selling

your material in New York, applies only to stock material? A. Stock material, yes.

XQ93a. It has no reference to special work? A. No.

XQ94a. I understand you to say that 95% of your business is in what is known as stock material? A. Stock material, yes, sir.

XQ95a. This job of the Curtis & Yale people, the contract you had with them, was made in December, 1910, but not actually received by you until January, 1911? A. 1911.

2585 XQ96a. That is the only transaction you had with them at all? A. They have other orders on hand now which have not been shipped as yet.

XQ97a. None prior to that time? A. None prior to that time.

XQ98a. Did I understand you to testify that there was a depression generally? A. In Manhattan?

XQ99a. Anywhere. Any business depression you know of in the building trade or in the trade in which your material is set? A. In the building trade in Brooklyn there has been a depression, but our trade has not come in contact with the builders,

2586 as we are supplying the small mills throughout the territory, and as I stated, we are doing twice the business we did a year ago, for the reason we have got better known as a supply house.

XQ100. I mean, your business experience is such that you can say there has been a business depression generally, but that with respect to your own business, it has increased? A. There has been a depression in Brooklyn alone, for the reason that the builders have not been able to sell.

XQ101. Is there any business depression

throughout this other territory that you know of? A. No.

XQ102. You give it as your opinion that there has been no business depression for the last three years in the building line? A. No.

XQ103. Anywhere in the City of New York, or this territory you have referred to, Long Island City, and Jersey? A. We have found the building trade to be about the same in the last three years, with the exception of Brooklyn proper.

XQ104. I am not asking for your particular business. I am asking of your business experience 2588
in the trade generally. I will come to your special business in a moment. A. I can't say that there has been any material depression.

XQ105. You found that your own business during the period of three years back has increased, your own general business? A. Yes.

XQ106. And you attribue that to the fact that you have become better known in the supply business? A. Yes.

XQ107. But does your experience in the business generally or in this trade generally, extend so far as to enable you to express an opinion as to whether 2589
there has or has not been a depression in that business generally during the past three years? A. Business in our line in this section has not been what it might be.

XQ108. You merely think that you have been successful in your particular business because of the fact that you have become better known? A. Yes, as a supply house.

XQ109. You used the expression that you have been shut out of Manhattan. Do I understand from that you have not been able to sell stock ma-

terial in which you deal, or which you supply in Manhattan, by reason of the fact that the union men will not erect that material in Manhattan? A. That was the cause of it.

XQ110. You found that out from inquiry amongst men you have solicited business from in Manhattan? A. They gave that as the reason.

XQ111. That they don't want the non-union material? A. Yes, can't use it.

XQ112. Did you ever offer to supply them or any of these other customers with union made material?

2591 A. No, sir.

XQ113. And that was because you had no knowledge of any such material? A. With the exception of the Gilmore Door Company of Buffalo, New York.

XQ114. You would have been glad to get their business in the union material if you had known where you could get the material to supply it? A. Yes.

XQ115. It was a business proposition? You were not interested in these controversies one way or the other? A. Yes, I am not prejudiced.

XQ116. If you had known where you could have

2592 got the union made material to supply them, you would have been glad to furnish estimates? A. Why, sure.

XQ117. What proportion of your business is glass? A. About 20%.

XQ118. Do you do as much business as this man Werbelovsky in Brooklyn? A. Not in the glass business.

XQ119. But in business generally? A. Oh, larger.

XQ120. That is, in the sash business? 9. Sash,

 2593

blinds and doors. Werbelovsky is only in the glass business.

XQ121. That is his principal business? A. Yes, that is the only business he is interested in.

Re-direct examination by Mr. Merritt—

RDQ122. How do you account for the falling off of your purchases from R. McMillen Company in 1911? A. From the fact that we have not been able to sell sash, doors and blinds in Manhattan to the mills, as we were heretofore.

RDQ123. When you testified that you did not 2594
know of any union mills, do I understand that you did not have in mind such concerns in New York as the Empire City-Girard Company, Murray & Hill, Harlem River and concerns of that kind? A. Those folks were customers of mine, and they are not manufacturers of stock material. They are the same as other mills, they manufacture special work, at least they used to, manufacture the special work and get their stock material from the manufacturers from the west in carload lots and buy from concerns like ourselves for their shorts, or orders for less than carloads. I am aware that these small mills were union mills, but not in the sense that I 2595
was understanding them to be manufacturers of sash, blinds and doors. I knew that the Gilmore Door Company were unionized, but I also knew that they were gone out of business, and I did not consider them for a moment.

RDQ124. Why do you refuse to answer the questions of defendant's counsel as to the names of customers who have asked you or written you to remove the names from the doors or all marks which would indicate the origin of the doors?

Mr. Beattie: I object on the ground that it assumes that the witness only spoke of doors.

A. By request of my customers that it be kept confidential, and I would not, under the circumstances, disclose their names.

RDQ125. It is rather important to the hearing here that those names be given. A. I would not disclose their names without consulting them on the subject. If they are willing, I shall be pleased to state who they are, as a witness, but I will not
2597 commit myself to-day.

RDQ126. Is that your only reason? A. That is my only reason.

Re-cross-examination by Mr. Maloney—

RXQ127. When you speak of mills, do you mean that the only mills you know of are those that are mills like the McMillen people? A. That is the idea. These concerns in New York are not in position, have not got the facilities, to manufacture hardwood stock doors. It requires modern machinery and machinery adapted to that purpose.

RXQ128. You know that the George A. Fuller
2598 Company and Eidlitz and Thompson-Starrett people use material of that description, don't they? A. Yes, sir.

RXQ129. Where do they get their material? Not from you, do they? A. No, they have not.

RXQ130. You know that they are under agreement to use only union material, don't you? A. I understand that to be a fact, yes.

RXQ131. Have you any idea where they get their material, then? A. As I understand, part of it was made up in this city.

RXQ132. Made by the Empire City-Girard Company? A. Yes.

RXQ133. And that would indicate that they were in position to supply quantities of that material? A. The small mills of the city are not able to supply 25% of the demand for doors.

RXQ134. Well, then, these master carpenters like the George A. Fuller Company and the Eidlitz people, and the Thompson-Starrett, really do but a very small proportion of the business in the Island of Manhattan, do they? A. Oh, yes.

RXQ315. And the vast majority of the business 2600
is done by other smaller builders? A. Yes, sir.

RXQ136. Who use the non-union made material? A. That use stock doors. To make these same doors in the city here would cost twice as much as we sell the doors for.

RXQ137. In other words, they have to pay the increased wages in a large city, over the wages paid in the far west? A. They could not manufacture for the prices on account of the cost of the ground and manufacture of the doors, the expenses, overhead, are so great that they could not manufacture the same door for twice the price which we sell it for here. 2601

RXQ138. You include in that increased price the additional cost of labor here, mechanics? A. Not materially so, no.

RXQ139. Do you know what they pay mechanics out west in a case like Paine Lumber Company or McMillen? A. I am not familiar.

RXQ140. Do you know that they employ women and children on those shops? A. No, they do not.

RXQ141. You know that they do not? A. I

know they do not. I just came back from a trip west through the mills of Wisconsin.

RXQ142. And did you go through the Paine Lumber Company mill? A. I went through part of it only, in their office and part of the mill. I was through four different mills, one in Ninah, Wisconsin, one Curtis & Yale of Warsaw, and three different mills in Oshkosh, Wisconsin.

RXQ143. Did you go through the Paine Lumber Company mill? A. I went through them all, part of the mill only and through their office.

2603 RXQ144. Did yo go through Morgan & Company? A. I was through theirs.

RXQ145. And you saw no women or children employed? A. Not in either one of the mills. They used to employ some girls for feeding veneers through the glue, where they glued the veneers, but they have done away with that.

RXQ146. You think they gave you a frank exhibition of their works, then, when you went out there? A. I could not help but see, when I went through unexpectedly.

RXQ147. It was no holiday at the time you went through, was it? A. No. I am familiar with the

2604 manufacture, I have been through the mills very often.

Re-cross-examination by Mr. Beattie —

RXQ148. Would there be any difference in your testimony if I informed you that Mr. Paine admitted that he had four or six women working on buzz saws in his mill, as well as other women and children, and that the same conditions occurred in the Morgan Company by the admission of the Morgan representative?

2605

Mr. Merritt: I object to the question because it is too general and I would like to have counsel point out as to what part of his testimony he would like to know, to be changed, if he knew such facts were true.

A. It would be a surprise to me, as I was not aware of such fact and I could not believe it unless I had seen it.

By Mr. Merritt—

2606

RDQ149. You testified in answer to some question of Mr. Maloney's concerning the amount of business done by certain master carpenters in the Island of Manhattan. Do you know how many members there are in the Master Carpenters' Association of the City of New York? A. I have no idea.

RDQ150 Have you any idea of the amount of business done by the members of the Master Carpenters' Association of the City of New York on the Island of Manhattan? A. No, I have no idea. I did not know that the gentleman referred to the Master Carpenters' Association. He alluded to certain builders, naming three or four large builders, of New York City and asked what proportion that was to the general demand, or to the builders of Manhattan.

2607

By Mr. Beattie—

RXQ151. Who asked you that? A. This gentleman here (referring to Mr. Maloney).

By Mr. Maloney—

RXQ152. Well, let us make it plainer, then. Do

you know that there is a Master Carpenters' Association in New York, Manhattan? A. I know there is a builders' association.

RXQ153. I meant the association composed of George A. Fuller Construction Company, Thompson-Starrett and Eidlitz, and people of that class? A. I know that there are several builders of that kind and I understand they have an association.

RXQ154. And they have a working agreement with the carpenters' union and with the building trade generally? A. Yes, I happened to read of
2609 that delegation not long ago.

RXQ155. Now, do you know whether the work done by these master carpenters, members of that association, forms a large or a small proportion of the business done in stock material in Manhattan? A. Well, the business with that class of builders, they do not generally use so much stock material, the principal demands for material in our line of trade is special work or doors and sash made to order, of special sizes.

RXQ156. So that these master carpenters would not have much occasion to deal with these complainants here, would they? A. Oh, yes; they do
2610 have. It depends on the kind of a job they have. I knew an occasion——

> Mr. Merritt: I object to this line of examination of witness, as this witness has already testified that he does not know what persons are members of the Master Carpenters' Association, and until it is shown that he knows what that membership is, he cannot testify concerning their business dealings.

RXQ157. Are you familiar with the names of

these complainants—there are about eight of them? A. (Examines list) Oh, the plaintiffs I am.

RXQ158. They manufacture principally stock material? A. Yes.

RXQ159. These master carpenters. Look at the part I have marked—you see there is some representation, stating the residence, but this will give you the names of the Master Carpenters' Association. Look at the part of the bill of complaint in this action wherein is set forth the names of the members of the so-called Master Carpenters' Association. (Witness examines paper) You have 2612
noticed these names? A. Yes.

RXQ160. It is alleged in the complaint in substance that these men compose this so-called Master Carpenters' Association. A. Yes.

RXQ161. Do those men use stock materials such as the complainants sell? A. In my opinion, yes, there is a multitude of names I did not know were connected with an association of that kind. By your former questions, I thought you only alluded to three or four large builders who make a specialty of constructing office buildings, wherein the majority of the work is detail, but I see through here 2613
names of concerns who I know use and have used quantities of stock material such as sash, blinds and doors as we use in our line, in fact, some of these concerns I have sold and am selling now.

RXQ162. Sometimes you sell them stock 1⅜" size and under, don't you? A. 1⅜ what?

RXQ163. 1⅜ size and under? A. You mean, stock sash 1½ double hung, which is the stock sash of this market?

RXQ164. Well, there appears to be a part of these sizes to which the union makes no objection,

and such material as these people purchase, 1⅜ and under in size? A. The 1½ sash is finished 1⅜, they call it 1½ because it is made out of 1½" lumber.

RXQ165. You sell a good deal of that? A. Yes, thousands and thousands of piers.

RXQ166. So that among these persons whose names you have just read, there would be many of them who would be using material of that size? A. Yes.

RXQ167. That is not one of the controver-
2615 sies in this suit. Do these persons, as far as you know, whose names you have read, use material of a larger size than that, in stock material? A. No.

RXQ168. They principally use special material, do they? What you call specially made stock? A. Why, they have a sash calling for 1¾, which has to be made up, not carried in stock. We have at times mills make those sash and ship them.

RXQ169. On special orders? A. Yes, on special orders.

By Mr. Merritt—

2616 RDQ170. That applies to sash only? A. Yes.

By Mr. Maloney—

RXQ171. The material to which we have been referring is divided into two classes, what is known as stock material and material which is made upon special detail? A. Yes.

RXQ172. Referring again to this list of names of these master carpenters, can you state generally what proportion of the business done with those men is in stock material and what proportion is

done in this detail, or special work? A. About 50% in my opinion.

RXQ173. You would divide it about equally? A. Yes, sir.

RXQ174. Now what proportion of the total stock material used on Manhattan Island would you say these men used—whose names you have just read—in percentage, as compared with the whole? A. The whole what?

RXQ175. The whole of the Island of Manhattan? A. Well, I should judge, the names I have read there, composed the major part of the reputable builders in Manhattan, and in my opinion, they would use about 60% to 70% of what there would be a demand for in that. 2618

RXQ176. Of stock material? A. Of stock material.

RXQ177. Now how much would you exclude from that stock of 1⅜" size, as we call it, and under? A. It is less than 10%, sash.

RXQ178. So you think these men probably do 50% of all the stock material on the Island of Manhattan? A. I do, yes.

RXQ179. Now is that just a mere guess, or is it based upon any experience on your part with many other builders and workers on Manhattan? A. It is based on experience that I have had for the last eighteen years in this line of business. 2619

Mr. Merritt: Why do you change your business to 50-70%?

Mr. Maloney: Because he deducts 10%.

Mr. Merritt: The witness testified that 60% to 70% of the business was done by the build-

ers belonging to the Master Carpenters' Association.

Mr. Maloney: Witness testified to nothing of the kind, he testified to what is shown by the record.

RXQ180. Does that experience mean the experience you have had with these men whose names you have read, or the experience with other men whose names do not appear in this bill of complaint that I have shown you? A. With the trade in gen-
2621 eral.

RXQ181. Are there other men engaged in this same general work in New York? A. Yes.

RXQ182. And do you know to what extent? A. I would not dare to state the percentage, no.

RXQ183. You can give me no idea? A. No, I could not give any idea.

By Mr. Merritt—

RDQ184. You testified, did you not, Mr. Macaulay, that in your opinion, those names which you have read, composing the Master Carpenters' Association, would do from 60% to 70% of the
2622 building business on the Island of Manhattan? A. I believe they would.

By Mr. Beattie—

RXQ185. You are not familiar enough with Manhattan to tell of that per cent. definitely, are you? A. From my experience and knowledge. I have known the names that I see there, and if they are members of this association, I know what their capacity of business is in a general way, and from

my knowledge of the business being done in Manhattan for the last eighteen to twenty years.

By Mr. Maloney—

RXQ186. Do you know what the business done in stock material was on the Island of Manhattan last year? A. I have no conception of that amount.

RXQ187. And you do not know what business in stock material these men do whose names you have read? A. I could not name the amount, no.

Subscribed and sworn to before me this day of , 1912. 2624

GEORGE L. HILTON, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt —

Q1. What is your full name? A. George L. Hilton.

Q2. And your age? A. Thirty-five. 2625

Q3. You are Secretary of the Builders' Association of Brooklyn, are you not? A. Yes, sir.

Q4. How long have you held that position? A. Since 1907.

Q5. How many members has that association? A. At present, about fifty.

Q6. How many members did it have a year ago? A. About 100.

Q7. In the fall of 1910, you were visited by certain men who represented themselves to come from

the carpenters' union, concerning non-union trim, were you not? A. I was.

Q8. Now tell me when this took place? A. It was some time during the month of September, I don't remember the exact dates.

Q9. Were you visited on more than one occasion at that time? A. I think on two or three occasions.

Q10. Do you remember whom you saw at the first meeting? A. I remember Mr. Erickson as being one of the gentlemen, I don't remember, he had either one or two more with him, possibly three,
2627 but I don't recall their names at the present time.

Q11. Did they visit you at your office or at the office of the Builders' Association? A. At the office of the Builders' Association.

Q12. Did you call the meeting, or did they come without any arrangement on your part? A. They came voluntarily.

Q13. Do you remember what was said at this meeting? A. They came and said that a number of the builders were handling what is so-called non-union trim, and they expected that there was going to be trouble over it. I don't remember the exact details of what else went into it, but that was the
2628 substance of the conversation at the first meeting.

Q14. You don't remember the names of anyone else, but that of Erickson coming at that time? A. I don't recall who was with him at that time, because they were in there so many times during that month—we had a number of committee meetings; I could not tell you the names of the delegates who were there at certain times, without refreshing my memory. There were a number of delegates attended and I could not tell you offhand which were there at the first, second or third meetings.

Q15. You made an affidavit in the case of Albro J. Newton Company against Henry Erickson, did you not? A. I did.

Q16. Which you refused to allow to have used? A. I refused to allow that used; yes, sir.

Q17. Now I will ask you to look at this paper and see if it is your affidavit, and for the purpose of refreshing your recollection as to the date when this first meeting took place, and the persons who came there? A. This is the affidavit; yes, sir. On or about the 12th day of September, 1910, at the office of the Builders' Association, I was visited by 2630
two men, who represented themselves to be Henry Erickson and John Wolfinger.

Q18. I won't ask you to read the affidavit. I just want it in regard to those particular questions. Well, now, you were visited later by other men concerning this same matter? A. Yes, sir.

Q19. Do you know how long after the first visit it was that these men came along? A. Within three or four days, I believe, a very short time.

Q20. Do you remember who came on this second occasion? A. I don't; no, sir.

Q21. Can you recall whether Erickson came 2631
again? A. Mr. Erickson was there on every occasion, I believe.

Q22. Do you recall whether or not Mr. Wolfinger came? A. No, I don't recall.

Q23. Do you recall what was stated at this second meeting? A. It was very similar to what was said at the first meeting, and they also suggested that the Builders' Association co-operate with them in helping—they said they were going to unionize the different mills in the Borough of

Brooklyn and requested the assistance of the Builders' Association in co-operating with them.

Q24. Is that all that you recall now? A. I don't remember if they mentioned any particular names at that time, I can't state that.

Q25. That is all you recall that was said at that time? A. Yes, at that time.

Q26. Now I will ask you to examine your affidavit again on those points, and tell me who came to see you at the second meeting? A. The second meeting was on September 15, 1910.

2633 Q27. Who came to see you then? A. Erickson, Wolfinger and a third man who is known as John Rice, who gave me a card by which he identified himself as John Rice.

Q28. What were their full names? A. Henry Erickson, John Wolfinger, John Rice.

Q29. Was any mention made at that meeting as to the names of any non-union manufacturers? A. Yes, sir.

Q30. What was said in that connection? A. They said there was going to be trouble on account of unfair trim, and mentioned the names of Albro J. Newton, John S. Loomis Company, Cross,
2634 Austin & Ireland, and Louis Bossert & Son.

Q13. Was anything said about any delegates from the west, that you recall? A. Yes. They said there were two delegates on to New York at that time and there would be some more in this work of unionizing these mills.

Q32. Did they ask that the Builders' Association hold a meeting with them? A. No, I believed that they asked—wait a moment—they asked that the Builders' Association co-operate with them.

Q.33. Did they at this meeting state in what

way they wished the Builders' Association to co-operate with them? A. My undtrstanding was, that the builders in Brooklyn could, by taking the mater up direct with the mill owners, in that way probably accomplish something in the line they wished.

Q34. Did you have a third meeting with these men? A. There was one more meeting; yes, sir.

Q35. And how long after this second meeting was it that the third meeting took place? A. It was not very long, I don't recall the date.

Q36. Less than a week? A. I believe it was. 2636

Q37. And who came on this third occasion? A. I think Mr. Erickson was one, and I believe Mr. Wolfinger was there, and I think Mr. Rice—I don't know whether there were more or not.

Q38. What was said at this meeting? A. They came and said that strikes had been declared on jobs of members of our association that were handling what they called non-union trim.

Q39. Were any names mentioned of mills? A. The strike that was declared was on the jobs of members of our association. That is as far as I was interested. I don't know of any of the outside jobs; I knew nothing about that; simply the jobs of our association that were handling the trim of the Albro J. Newton Company. 2637

Q40. Did they state they had declared strikes on jobs you remember as handling non-union trim, or that they had declared strikes on members handling trim of the Albro J. Newtown Company? A. That they had declared the strikes on the jobs of members handling the trim of the Albro J. Newton Company; that after they had gotten his mill in line, they were next going after the Loomis Company; then

after Cross, Austin & Ireland, and then after Louis Bossert & Company mill.

Q41. Now I will show you your affidavit again for the purpose of refreshing your recollection as to what persons came to you at this last meeting. A. September 20th. Erickson and Rice and a third man who represented himself to be E. H. Neal, Secretary and Treasurer of the Joint District Council of New York. He gave me his card showing himself as such.

Q42. I will show you certain cards purporting to
2639 be the business cards of some of these men that called on you, and ask you if you recognize those as cards or duplicates of cards which were handed you by various of these men at that time? A. Those are the same, or duplicates; yes, sir.

Mr. Merritt: I will offer those cards in evidence as Comp. Ex. 22, 22a, 22b, 22c.

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

Q43. And I will ask you whether, in each instance, those cards were handed to you by the man
2640 whose name is printed on them? A. I think I was only presented with one card by each man. Each time they came in they did not give me a card.

Q44. Was the card in each instance handed to you by the man whose name appears on the card? A. Yes, sir.

Mr. Merritt: I will ask to have these cards copied into the record, rather than submit them as exhibits.

George L. Hilton for Complainant—Direct. 2641

EXHIBIT 22.

"(Label) Telephone, 2021 Plaza
John Rice
Representing the
U. B. of C. & J. of A. and A. S.
Headquarters
142-144 East 59th Street
New York"

EXHIBIT 22-a.

"Telephone 2932 Main (Label)
John Wolfinger
General Organizer
United Brotherhood of Carpenters & Joiners
of America
Residence, 1398 Myrtle Ave., Brooklyn
Brooklyn office
255 Atlantic Avenue
Home office
Indianapolis, Ind.
Carpenters' Building" 2642

EXHIBIT 22-b

"Telephone 3923 Main (Label)
Henry Erickson
518 Forty-Sixth Street
Brooklyn, N. Y.
Representing
the Joint District Council
of the United Brotherhood of
Carpenters and Joiners of
America
Brooklyn Headquarters
255 Atlantic Avenue
Corner Boerum Place" 2643

2644 George L. Hilton for Complainant—Direct.

EXHIBIT 22-c.

"(Shield) Telephone, 2021 Plaza
E. H. Neal
Secretary-Treasurer
Joint District Council, U. B. of C. & J. and
A. S. of C. and J. of A.
124 E. 59th St., New York.
(Label)"

Q45. The members of your association are all
2645 builders, are they not? A. They are, speculative or contracting.

Q46. Will you state whether or not, from the nature of their business, they require doors, sash, wood trim, for the conduct of their business? A. Yes, sir.

Q47. Did you ever receive any communications in writing from the Carpenters' Union or District Council at this time? A. Why, it would take a little time to answer that question. After these delegates were in to report these things that I have just said, and the strikes had been declared, I immediately called a meeting of our Arbitration Com-
2646 mittee, and the Arbitration Committee requested the Carpenters' Union, or the Carpenters' Association, to have a committee from their organization meet our Arbitration Committee, with a view of adjusting this matter. I think we had two meetings of those committees. We were getting along very nicely, and they held two meetings, two rather extended meetings, the outcome of which was, that the men were to be returned to work on the different jobs. In the meantime, the Builders' Association to call a special meeting to decide whether or

not they could enter into an agreement with the carpenters' organization whereby our members would use nothing but union made material, union made trim; and I received a letter from Mr. Brown, the Secretary of the Carpenters' Association, to this effect, after the joint conversation between the two committees.

Q48. I requested you to bring with you any letters or anything you had on that subject. Have you brought anything with you of that kind? A. I have brought Mr. Brown's letter.

Q49. Will you produce it, please. (Witness produces letter.)

Mr. Merritt: I will offer that letter in evidence as Comp. Ex. 23.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Letter read as follows:

"Letter-head Joint District Council
(Brooklyn Borough Committee)
Headquarters: Atlantic Avenue and Boerum Pl.

New York, Oct. 1st, 1910.

Mr. Geo. L. Hilton
Sec. Builders' Association, Bklyn.

Dear Sir:

As per our understanding with committee representing the association and their request that our organization return our men with the proviso, that the question of non-union trim be taken up by a joint committee of both associations with a view of reaching a probable solution of same, in order to avoid strikes on the

several jobs of the members of the Brooklyn Builders' Association in future.

I am directed to inform your committee that the request has been granted and our men are ordered to man the several jobs on strike at present, with the understanding that we reserve the right to take action if the negotiations of the joint committee is not satisfactorily adjusted we would also request, that a committee of your association meet a committee of ours within one week, in order to speedily adjust our
2651 difficulties.

Very respectfully,
John A. Brown,
Secty."

Q50. Have you any record by which you can tell me the dates when those two meetings of your arbitrators took place? A. Yes, sir; I keep carbon copies of all communications I send out. I also have carbon copies, of course, of those notices calling the Arbitration Committee together, and also requesting the Carpenters' Committee to meet ours.

Q51. Will you give me the dates when those two
2652 meetings of the arbitrators took place? A. I suppose I can refer to this copy to tell you that.

Q52. If you are obliged to, to refresh your recollection. A. I don't remember it offhand. The first meeting of our Arbitration Committee with the committee from the Carpenters' Association, was held on Thursday, September 22, at 3 o'clock.

Q53. Have you any record to tell you what representatives of the union were present at that first meeting? A. I was present at the meeting and made a record personally of the members of the

Carpenters' Association, as well as the members of our own association.

Q54. Give me the names of the carpenter representatives? A. I shall have to refresh my memory by referring to this paper.

Q55. Very well. A. Representing the executive board from the Borough Committee of the Carpenters' Association, was Mr. John Rice, Mr. Henry Erickson, Mr. William Simpson, Mr. William O'Grady, Mr. Matthew Heinen, Mr. John Wolfinger.

Q56. Now when was the second meeting between the representatives of the carpenters and the arbitrators of the Builders' Association? A. On Thursday, September 29, at 12 o'clock noon.

Q57. And what representatives of the Carpenters' Borough Committee were present then? A. Mr. Rice, Mr. Erickson, Mr. O'Grady, Mr. Heinen and Mr. Dhuy.

Q58. What is his first name? A. Frederick.

Cross-examination by Mr. Beattie—

XQ59. During these discussions and talks with the members of the Carpenters' Union that you have referred to, was any mention made of the mill products of the Paine Lumber Company or of any other of the complainants in this case? A. Why, you mean during these committee talks?

XQ60. Yes. A. I can't answer that, as, as soon as I called our arbitration committee together, it was taken out of my hands. That is, according to our by-laws, whenever any trouble comes up on a job with any member of our association, I must endeavor to adjust it, if possible; if not, I must call a

meeting of our arbitration committee. While I was present at these meetings, and knew, of course, what was going on, I don't feel that I am in a position to state what was said at that time.

XQ61. Do you decline to state what was said at that time? A. It would only be hearsay.

XQ62. Do you decline to state what was said at these arbitration committee meetings.

Mr. Merritt: Please state it if you possibly can, because two men who were present this morning——

2657

Mr. Beattie: Don't try to post the witness.

Mr. Merritt: I am simply trying to comply with what I suppose is your wish. Take it down.

Mr. Beattie: I order the stenographer not to take it down.

XQ63. Now answer the question. A. I will answer everything to the best of my ability.

XQ64. I want to know what was said at these arbitration committee meetings as to any of the complainants' mill work in this case? A. I don't know that I heard any of these names mentioned, by name, simply referred to union made trim or non-union made trim.

2658

XQ65. Do you know anything about whether these complainants' mills were union or non-union? A. I do not.

XQ66. But you did not hear any of the names mentioned at any of these conferences of the arbitration committees? A. Not to my knowledge; no, sir.

XQ67. And you did not hear any of their names

mentioned by any of the gentlemen who gave you the cards, that have been put in evidence here? A. No, sir.

XQ68. When some of these gentlemen spoke to you, "There is going to be trouble because of non-union trim," what did you infer from the use of the word "trouble"?

Mr. Merritt: I object to that, incompetent, irrelevant and immaterial, what this witness inferred.

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A. About the only trouble that I could imagine, of course, would be a strike, an ultimate strike, if it could not be adjusted in some satisfactory way.

XQ69. You know these carpenters never cause any other trouble except strikes, don't you? A. As far as I know, they don't.

XQ70. They do not use any means that are not peaceful in connection with forcing their demands, do they? A. No. My connection with the Carpenters' Association has always been very friendly, and for that reason I objected to my affidavit going into the previous case.

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XQ71. And before causing any trouble, which means striking, they always try to arbitrate, don't they? A. Yes, sir.

XQ72. And they did in this case? A. They did in this case; yes, sir.

XQ73. And you did not permit the use of the affidavit you had made in the Newton case? A. I did not.

XQ74. For what reason, did you say? A. I considered that my position there was a sort of an official position, and also that my position with the

2662 different delegates always had been very friendly. They are always at entire liberty to come into the office at any time and would be received, and I treat it as a matter of confidence, their coming into the office, and whatever they may have said at that time.

XQ75. Is that why you did not want the affidavit used? A. Yes, sir.

XQ76. Are you a more willing witness now, for them? A. I am under subpœna here. I am no more a willing witness for them than for your side
2663 or any other person.

XQ77. Have you been subpœnæd to testify in the Newton case? A. I have.

XQ78. And you expect to testify in that case? A. I expect to.

XQ79. Prepared yourself by getting out these letters and things, and these cards? A. These cards have been out of my possession; they were borrowed about a year ago and had not been returned.

XQ80. Who did you give these cards to? A. Mr. Merritt.

XQ81. What purpose did you have in doing that? A. Just a moment, to see if I can answer that satis-
2664 factorily to you. I had this affidavit prepared, gave Mr. Merritt those cards and after I had sworn to the affidavit, came to the conclusion that I could not very well have it used; but Mr. Merritt had the cards and had my affidavit.

XQ82. Did you try to get them back from him? A. I went and asked him for them.

XQ83. Who asked you first to make an affidavit in this matter—the Newton matter? A. Why, I suppose, I cannot say positively, I think Mr. Newton.

XQ84. Well, Newton is not a member of your association? A. He is not.

XQ85. You are under no obligations to Mr. Newton? A. None.

XQ86. How many sessions were there of this Arbitration Committee? A. Between the Carpenters' Association and the Builders' Association?

XQ87. Yes, between the two committees. A. There were two, I think.

XQ88. Do you know how far your arbitration committee was willing to go in conceding anything in connection with the points of difference? A. 2666
Well, the only point they wanted was, that we should employ or use nothing but their union trim. The Arbitration Committee met to see if they could comply with the demand, and it was a question as to how far they could go, until we called a special meeting of our association. We agreed to do this. The Carpenters' Association agreed to let their men return to work; but before this special meeting was called, this temporary injunction was granted to the Albro J. Newton Company. On top of that, we felt that we could not enter into any agreement with them, otherwise we would be in contempt of court.

XQ89. Then, as a matter of fact, the temporary 2667
injunction obtained in the Newton case was what terminated the efforts of these two committees to arbitrate the matter? A. Exactly.

XQ90. And were there prospects of such an adjustment, do you think? A. We had our meeting, I had already sent notices out and we had held our meeting. I knew nothing whatever about this injunction case being brought.

XQ91. Well, was the injunction served on you at any time, or how did your committees come to dis-

2668 solve on account of the injunction? A. Well, I suppose both sides finally heard of it. I have Mr. Brown's letter there, which I replied to after the meeting of our association. They undoubtedly heard of it, the same as we heard of it, and there was no further effort on their part to push the matter.

XQ92. At the time that this arbitration began, had you an understanding with the carpenters by which you were to arbitrate differences between you? A. We had an understanding, but no agreement. We had an agreement a few years previous-

2669 ly, but it had never been renewed.

XQ93. Do you know what proportion of the building work in Brooklyn is done by your members now, just taking the Borough of Brooklyn—I believe they do not operate outside of that?

Mr. Merritt: I object unless the witness can qualify as having some substantial knowledge of the subject.

A. Just the Borough of Brooklyn. I don't know, that would be my answer to that, I don't know.

XQ94. Are these members of your association, large builders? A. Large builders; yes, sir.

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XQ95. Most all large builders? A. Most all large builders; yes, sir.

XQ96. And they are all of the class known as speculative builders, are they not? A. We have a few contracting builders; mostly speculative.

XQ97. What do you mean by speculative builders? A. A man that builds on his own capital, and is a man that purchases land and builds with his own capital.

XQ98. For the purpose of selling? A. For the purpose of selling.

George L. Hilton for Complainant—Cross. 2671

XQ99. Do you know of another association in Brooklyn, called the Mechanics' & Traders' Association, consisting of master carpenters? A. I know an exchange there, called the Mechanics' & Traders' Exchange.

XQ100. Do you know how much of a membership it has ? A. I do not.

XQ101. Don't you know that its membership consists largely of the class of builders known as contracting builders? A. I understand it is that.

XQ102. But you don't know as to the number of members? A. No. I have been at their place a 2672
great many times. There are representatives there from all different trades; it is a sort of exchange; it is a Mechanics' & Traders' Exchange, not an association.

XQ103. It requires membership to belong, doesn't it? A. I believe so.

XQ104. It is called an association? A. Well, now, there is a difference between an association, as I take it, and an exchange. They call themselves the Mechanics' & Traders' Exchange. We call ourselves the Builders' Association.

XQ105. I had the name, Mechanics' & Traders' Association? A. No, it is an exchange. 2673

XQ106. What do you understand the purpose of their organization is? A. Very similar to ours.

XQ107. Only it covers all the building trades, and you only cover the one, is that right? A. That is practically it. We have nothing but speculative and contracting builders.

XQ108. Well, what else do they have? A. Why, I suppose they have different trades, like the electrical trades, plumbers' trades, stone trade, and everything like that. We are simply boss builders.

2674 George L. Hilton for Complainant—Cross.

XQ109. Well, the members of that Mechanics' and Traders' Exchange also handle doors, sash and other such material, don't they? A. I don't know.

XQ110. Do you know how many builders there are in Brooklyn? A. I do not.

XQ111. Do you know how many master carpenters there are in Brooklyn? A. I do not.

XQ112. Can you give us any idea as to the proportion of those who handle union men and those who do not handle union men, among the master carpenters of Brooklyn? A. I can't give it; no,
2675 sir. That always has been a question, you know, a difference of opinion.

XQ113. Yes, but I thought you had perhaps ascertained in your line of business? A. No.

XQ114. You don't know definitely? A. No.

XQ115. Do you know why your membership has fallen off in the last year? A. The building trade in Brooklyn is very dead at the present time.

XQ116. It is dead over there? A. Yes, sir; it has fallen off fully 100%, as I have heard a number of our members say. A great many of our members are loaded up with houses and can't sell. A great many of our members we had a year ago are doing
2676 no business and dropped their membership.

XQ117. You don't attribute it to the fact that during nearly the whole of the year you had an injunction in the Newton case? A. No, sir. It was simply an inflation of values in Brooklyn at the time the subway was proposed, and now they are holding back to see where the subway is going, and as soon as it is definitely decided, there will be another rise on it.

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By Mr. Maloney—

XQ118. When you say the building trade has fallen off 100%, do you mean it has stopped altogether? A. No. You had better make that 50%—although it has practically stopped.

XQ119. Have you got the reply that you wrote to Mr. Brown, here? A. I have a copy; yes, sir.

XQ120. Let me see it, please. (Witness produces letter.) Was this letter written to Brown after Newton had obtained the injunction? A. Yes, sir.

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Mr. Maloney: I offer this in evidence as Dfts. Ex. A.

"Dfts. Ex. A.

Oct. 10, 1910.

Mr. John A. Brown,
Secretary, Joint District Council,
United Brotherhood of Carpenters and Joiners of America,
Atlantic Avenue & Boerum Pl., Brooklyn, N. Y.

Dear Sir:—

Your communication of October 1st, 1910 was duly received. A meeting had already 2679
been called to act upon the question of whether or not the Builders' Association would enter into an agreement with your Joint District Council to use only union trim. This meeting was held on October 6th at 4 P. M. and after a thorough discussion of the matter it was decided on vote of the association that while the Builders' Association fully sympathize with union labor and are employers of the same, still we feel that it is impossible to enter into

2680 a contract with your Council at this time to use only union made material.

Yours very truly,

Secretary."

XQ121. Did Newton come down to the meeting of the association, or was he there at any time? A. When we first heard of this trouble, some of our members, I don't know who they were, I have no way of finding out who they were, requested Mr. Newton to come down to the office, and he came
2681 down one day. This was before the committee——

XQ122. Before the strike? A. Yes, I think it was, I believe so.

XQ123. And were you present at the meeting when Newton talked with the members, where you could overhear what they said? A. I think I was, yes.

XQ124. Well, what was said by Newton and what was said by the members? A. The object of having Mr. Newton down there was, to see if some arrangement could not be made with him whereby this trouble that was threatened could not be averted.

2682 XQ125. Was he opposed to it? A. The way he looked at it, the only way this could be averted, was by unionizing his mill, which he refused to do.

XQ126. Now your position you had with the association, that you still have, you regard it as more or less one of confidence reposed in you by the association members and by the union men who come there to adjust their differences? A. That is right; yes, sir.

XQ127. When you found out that an attempt was being made by Mr. Newton or his company to

make use of the information which was obtained in this confidential position, you objected to the making of the affidavit? A. No.

XQ128. You objected to the use of the affidavit and the card? A. Yes, sir.

XQ129. Your understanding was, that these men came there in good faith and in perfect confidence to see if they could adjust their differences with the members of the association? A. That is right.

XQ130. And they made no threats or did not act in any violent way? A. Oh, no; not at all.

XQ131. What was it that created the impression 2684
in the minds of the members of the association or arbitration committee that they might be in contempt if they made the agreement with them after Newton had obtained the injunction? A. I can't tell you that.

XQ132. Did someone come there and mention the fact, some attorney, or did Newton? A. We held a special meeting of our association and at that special meeting, somebody, some one of our members—there are a lot of lawyers in every organization, would-be lawyers—somebody got up and said we would be in contempt of court if we entered into 2685
any agreement with the Carpenters' Association at that time.

XQ133. Did you get the impression that this man who stated that, was inspired by somebody outside to throw a scare into the committee, as it were? A. No, sir.

XQ134. It had the effect, however, of preventing the association from attempting any further adjustment of the matter? A. The matter was adjusted by the injunction.

XQ135. I mean to say, that it prevented the com-

mittee from any further attempts to adjust the matter? A. As I say, the matter was not adjusted, because there was nothing to adjust at that time. After the injunction was granted, as we took it, the matter was closed.

XQ136. And your understanding was, that the court would not allow the men to strike and there was nothing further to be adjusted? A. Nothing further to be adjusted if the men would not strike, so it was simply dropped on the part of the Builders' Association.

2687 XQ137. And after that, you sent this copy of letter to Mr. Brown? A. Yes, sir.

XQ138. Do you remember how many times Newton came there? A. I think but once.

XQ139. Was he accompanied by anyone when he came, or did he come alone? A. I believe his son was with him. Mr. Newton is rather an old man and his son trots around with him a great deal. I don't recall whether anybody else was there or not, outside of the members of our association.

XQ140. Did you talk with Mr. Neal on the 20th of September, 1910, when he was present? A. Why, yes, in a general way. I had nothing to do with the

2688 meeting, with any conversation, but, of course, I acted pleasantly, or tried to.

XQ141. And you thought that these men were thoroughly respectable men, didn't you? A. Certainly.

By Mr. Beattie—

XQ142. Does your association contribute any moneys to the American Anti-Boycott Association? A. No, sir.

XQ143. Are any of the members of your associa-

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tion members of that association? A. I don't know.

XQ144. Do you remember whether, in the discussion which took place, the question came up about taking the marks off the materials, so as to cover them up when they were selling them to purchasers? A. I don't know that that came up at that time, no, I don't believe it did, although I have heard a great deal about it.

XQ145. Did it come up some time? A. Oh, yes; I have heard it a great many times, of course.

Re-direct examination by Mr. Merritt—

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RDQ146. Did you ever see the injunction in the Newton case? A. I did not; no, sir.

RDQ147. Was your understanding that the individual men could not quit work after the injunction was issued? A. Oh, no.

RDQ148. What was your understanding? A. My understanding was, that the Carpenters' Union or the Carpenters' Association as such could not call a strike against any builder or any person using trim from the Albro J. Newton Company mill on account of his using such trim.

RDQ149. Have you intended to imply in any of your testimony that your members were desirous of entering into an agreement not to purchase non-union trim and were only prevented from doing so by the injunction? A. No, sir.

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Mr. Maloney: I object to that question and the answer as calling for something in the testimony.

RDQ150. Have you any information to lead you to testify that your members were desirous of so restricting their purchases?

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Mr. Maloney: I object to the word "restricting." There is nothing to indicate that they were restricting their purchases.

A. I don't quite understand the question.

RDQ151. Have you any information from which you could testify that your membership were desirous of entering into an agreement limiting their purchases to union material?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial, impossible to answer.

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A. I could not answer that, except to say that our members buy where they can get their material cheapest.

RDQ152. I ask you, if you had any information yourself from which you can testify that they wished to enter into such an agreement? A. No, sir.

By Mr. Maloney—

RXQ153. Where did you get the limited understanding of the injunction that has been referred to by counsel for the complainant? A. From general conversations with different persons.

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RXQ154. And the impression was created over there, then, that the organization alone was prohibited from calling strikes and that the men could quit work or that the leaders could call them out if they wanted to? A. Well, a man can quit work at any time he wishes, you know, on any job.

RXQ155. You mean, that is your understanding of a man's rights? A. Of course.

RXQ156. You don't know what this injunction

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means in this case, the Newton case? A. I have not read it, no, sir.

RXQ157. Counsel asked you if you understood that it meant that the men could refuse to work themselves, and you said you thought that they could, that that was your understanding, that they could, but only the organization was prevented from calling a strike? A. Well, I think I stated in my answer that the organization could not call a strike against any builder or person using the trim from the Albro J. Newton Company, simply from the fact that he was using that trim.

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RXQ158. Was it your understanding that the men might refuse to work just the same? A. I believe I said nothing about that, although a man or a body of men can quit work at any time.

RXQ159. That is not apparently what the injunction means? A. That is my understanding of the matter.

RXQ160. I want to get at that, because counsel is trying to create the impression that that is all the injunction meant. Wasn't it your understanding of the injunction that it enjoined and restrained the men from refusing to work upon material made by Newton, where such refusal came about through their organization leaders calling them out? A. Yes, in a general way.

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RXQ161. In other words, your understanding was, that while the men themselves might directly refuse to work on the material, that when their agents, acting under their instructions, called them out, then they could not do so? A. I said my answer was, simply my general understanding. I have not read the injunction. I know nothing about it.

2698 William D. Martin for Complainant—Direct.

RXQ162. You have been asked by counsel on the other side about your understanding, that I assume that his object was to ascertain what effect it had or might have upon this attempt to arbitrate the differences. Now, I want to know whether the understanding you had there was, that the injunction enjoined and restrained the men from refusing to work upon the material of Newton where their refusal to do so was based upon their being called out by their organization leaders? A. I don't know as to that.

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Mr. Beattie: I move to strike out this witness's evidence on the ground that it does not refer to any of the mill work of any of the complainants, and as incompetent, irrelevant and immaterial.

Subscribed and sworn to before me this day of , 1912.

WILLIAM D. MARTIN, a witness called on behalf of
2700 complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. William D. Martin.

Q2. And you reside at 464 1st Street, Brooklyn, do you not? A. Yes, sir.

Q3. And you are a builder? A. Yes, sir.

Q4. And also operate a small shop yourself, do you not? A. Yes, sir.

Q5. And in this shop you manufacture wood trim of different kinds? A. We manufacture trim and wainscoting, and make buffets, doors, all branches of the business. We have got machinery and everything of that kind.

Q6. Do you operate what is known as a union shop? A. A union shop.

Q7. Have you a written agreement with the union? A. No, sir.

Q8. How long have you been engaged in this way as a manufacturer? A. About 38 years.

Q9. Always over in Brooklyn? A. Always over 2702
in Brooklyn.

Q10. You also engage in business as a builder, do you not? A. Yes, sir.

Q11. And how long have you been engaged in business in that capacity? A. About the same time.

Q12. And your operations are limited to Brooklyn, as a rule? A. No, sir; I have built all over.

Q13. In September, 1910, you were conducting a building operation in Brooklyn, were you not? A. Yes, sir.

Q14. Where and what was that building operation? A. Five houses in 1st Street, near 7th Avenue. 2703

Q15. And you ordered the materials, or part of the materials for those buildings, from the Albro J. Newton Company? A. Yes, sir; made a contract with them.

Q16. About when was that contract made? A. I could not tell you exactly, it was a month, well, it is two months previous to the strike.

Q17. What did the contract amount to, in money, approximately? A. About $2,300 or $2,400.

Q18. Now, in the fall of 1910, when you were

conducting this building operation, were you visited by any men who represented themselves to be delegates of the Carpenters' Union concerning the use of the Newton material? A. Yes, sir.

Q19. About when was this? A. Well, I have not the dates, sir; I think it was in September.

Q20. What was the condition of the building at that time? A. The buildings at that time, we were trimming the buildings, putting up trim at that time.

Q21. Part of the trim was installed? A. Yes, sir,
2705 a good deal of the trim was installed.

Q22. These were three 3-story buildings? A. Yes, sir, 3-story and cellar.

Q23. What did these men say to you at this time?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. Well, I happened to be in the building at the time when the delegates came in. There were two delegates came in and they said, "Mr. Martin, we got to call a strike on your buildings." I said, "What's that for? This is news to me. I don't see how you can call a strike here. According to the
2706 agreement, before any strike can be issued on any new buildings or anything of the kind, there should be an arbitration." "Well," he says, "This is a little bit different now. We are going for Albro J. Newton Company on account of furnishing non-union trim." I said, "Well, how about these other mills?" He says, "Well, we're going to take one at a time, we're going to Albro J. Newton and Loomis, Cross, Austin & Ireland and Bossert," and so on.

Q24. Did he name any others? A. I think White, Potter & Page. And that day that they came into

the building they did not—shall I go on and tell the conversation?

Q25. Yes.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. That day—they did not call the strike in our building; I talked it over with them and told them that I had a great deal of stuff there that was got out in my own shop by union men at $4.50 a day, and also a great deal of material which was over there 2708
that had not been delivered, and I asked them, I said, "Here, how can you call a strike on this——" No they spoke to me about—they said they would talk over it. "Your statement here is a little bit different from some of the other people, by running your own shop and getting it through union men," and with that they let the men go on for a couple of days longer, working. They then came in and called a strike through my 'phone, told them that they had to quit work at noon time. I came around to the building and Mr. Johnson, my foreman told me, "Mr. Martin, we knocked off, quit work, they won't allow us to go on and put up any of our own 2709
material, or any of Albro J. Newton's material, as long as there's any of Albro J. Newton's trim in the building," and so it went on two or three days. My men used to come around every day. They seemed to want to work and to adjust the thing so that they could get back to work. So finally, Mr. John Nelson, one of my men, made an engagement to meet the delegates down at their rooms, corner of Atlantic Avenue and Boerum place, at night, and they were going to take up that question whether I could

2710 go on. In the meantime, the delegates went over and looked at this lumber that was got out over in our shop and factory, and allowed the men that were there in the factory to go on and work, and one of them over there, this Mr. Nelson I speak of, went down that night with me and we took up this question with——

Mr. Beattie: Answer Mr. Merritt's questions please. I ask that all that be stricken out as incompetent, irrelevant and immaterial.

2711 Q26. Did the men at your factory quit work? A. No, sir; they worked there.

Q27. But the men on these buildings did? A. The men on these buildings did.

Q28. Now you went down to headquarters? A. I went down to headquarters, and we went over; they first invited me into the room, we talked over this subject——

Mr. Beattie: Wait a minute, you have not been asked all this. Objected to, incompetent, irrelevant and immaterial.

2712 Q29. Tell me what took place at headquarters. A. I went down there to headquarters, and first, when I went in there, I stood in the hall, and they then found out I was there, and then in about half an hour, they invited me inside and we sat down to a table something similar to this, and there were five or six delegates there and we talked over this question about using our lumber that was cut out by union men. I told them it was an outrage not to allow me to use it. We talked it over, and then they finally wanted to know if I could not do away

with all of my contract with Albro J. Newton and give it to somebody else. I told them "No, I can't do that. I have got a contract with Albro J. Newton and in my contract there is a strike clause there and I will have to pay for this material now." I told them "If you let me go on and put up this material, I will not deal with Albro J. Newton any more until this question is settled." And then they asked me to please retire from the room. I retired from the room and I came back in about twenty minutes, after they got through talking, and they told me "Mr. Martin, we can't do anything for you." 2714
I promised not to use any of his material at all, or to put up any, only to put up our own. He said, "As long as you have got any of his material on the job, we can't let the men go back to work." So that was the conversation.

Q30. You promised that you would not put any Newton material on the job if they would allow the men to go back and put up your union material? A. I told them I would not use any of Albro J. Newton's material until the question was settled, and would not give Albro J. Newton any new contract until the question was settled. For I had not heard that there was any trouble between the 2715
delegates or between the lumber men or anything of that kind until they came into the place there with the strike. My men were all surprised. We were all surprised. I asked them, I said, "Is this any fair treatment of a man, to pounce on him in this way, when he is right in the midst of a job?"

Mr. Maloney: I move to strike out his statement about the men being surprised, and the last three or four sentences, as being state-

ments of his own, not binding in any way upon these parties, and move to strike out the whole answer and all of his testimony, as incompetent, irrelevant and immaterial, and having nothing to do with the complainants and not bearing on the issues here, and hearsay. No person being identified.

Q31. You don't remember the names of any of these men? A. No, sir; I do not.

Q32. Or the names of the men who talked to you
2717 in the building? A. No, sir; I do not.

Q33. Did these men state to you at the meeting whether or not any other jobs using Newton's trim had been struck? A. Yes.

Q34. What did they state in that connection? A. W. C. Bush, Norris—I think Taber— and Ed Maguire, and then I think that there was a builder in 8th Avenue.

Q35. Did they mention any number of buildings? A. There were eight or nine jobs altogether.

Q36. Did they state that there were eight or nine? A. Yes.

Q37. That had been struck? A. Yes, eight or
2718 nine, and told me that I was the last one they had pulled out.

Q38. Was any mention made in your conversation with these men concerning wood materials produced by western manufacturers?

Mr. Beattie: Objected to, incompetent, irrelevant, immaterial, not identifying anybody.

A. Yes, I spoke to them about the stuff that was being used all over the city, that was non-union stuff, that was coming from the west, and they said

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they were going to stop that after a while, but they wanted to get mills in the city in the union first. I told them, "Don't you think that's a poor way? There's ten times as much stuff coming from out of town as there is manufactured here, and all around me they are putting up this non-union trim with union men," I said.

Q39. Was any reference made to the Island of Manhattan? A. Not that I know of.

Q40. When you said the non-union trim was being put up all around you, was that said in reference to the Borough of Brooklyn or the Island of 2720
Manhattan, or all of the City of New York? A. All of the City of New York, and there was a job there only just around the corner, a man by the name of Lovett; Newton furnished him a very small proportion of his work, and all his work was pretty near out of town work. I said, "There's a building only a block from me there; all union men are working there putting up that material," I said, "Here's a shop that's always paid the full price and won't employ anything but union men."

Q41. Did your men return to work? A. Yes, sir.

Q42. How long after was it that the men returned to work? A. I don't know exactly the time, 2721
I think they were out about eight or nine days, somewhere along that. They returned to work right after the injunction was issued. They came up to our factory and told me that they were going to work the next morning, that the delegates had ordered them back to work.

Q43. The same men returned to work who were out on strike? A. Yes, sir.

Mr Maloney: I move to strike out all his

2722 John T. Allen for Complainant—Direct.

testimony, incompetent, irrelevant and immaterial, not bearing on the issues here, relating to Newton & Co., and as being hearsay, and nobody identified.

Adjourned. *No cross-examination.*

Subscribed and sworn to before me this day of , 1912.

2723 Adjourned at 4.35 P. M. to Wednesday, December 20, 1911, 10.30 A. M.

PAINE vs. NEAL.

Hearing resumed, Wednesday, December 20, 1911, 10.50 A. M. at R. 1622, 25 Broad Street.

APPEARANCES:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. MALONEY,
MR. BEATTIE,
2724 MR. MAYER.

Mr. Merritt: At the request of Mr. Mayer, I agree that all of his clients for which he is acting at these respective hearings, shall have the benefit of any objections which may be taken by Messrs. Charles Maitland Beattie or William P. Maloney in connection with the taking of depositions in this action at Indianapolis.

JOHN T. ALLEN, a witness called on behalf of

John T. Allen for Complainant—Direct. 2725

Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. John T. Allen.

Q2. And your age? A. Fifty-six.

Q3. You reside in Brooklyn? A. 325 Carlton Avenue, Brooklyn.

Q4. In the fall of 1910 you were acting as a superintendent for Mr. George A. Lovett, in Brooklyn, in connection with the construction of certain buildings in Brooklyn, were you not? A. I was. 2726

Q5. What were those buildings, and where were they? A. Two apartment houses on the corner of 8th Avenue and Montgomery Place, Brooklyn, S. E. corner.

Q6. Certain wood materials for those buildings had been contracted for with the Albro J. Newton Company, had they not? A. Yes, sir.

Q7. Did you have some conversation with some people representing themselves to come from the Carpenters' Union concerning the use of these Newton materials? A. I did.

Q8. Now tell me when you first had the conversation on this point? 2727

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

Q9. And the party with whom you had it?

Mr. Mayer: Apparently concerning Newton trim, which is not involved in this case, not binding on any of the defendants herein; hearsay, and not identifying the parties.

Mr. Beattie: Same objection.

2728 A. There was a delegate in the habit of coming around almost daily to see the carpenters and the man with whom I talked generally when he came there. One day he brought another man there, and introduced him to me, who told me he represented the carpenters or mill men's union, and said that we were having trim delivered there furnished by Albro J. Newton Company, and that we must stop receiving it. I explained to him just what we were getting from Albro J. Newton Company, which was window frame, sash, dressers and such things as
2729 that. The greater part of the window frames and sash were on the ground and also the greater part of the dressers. I think they had been delivered the day before. He told me that the dressers must be taken off the job immediately; the sash and frames were in the windows, or at least, the sash and frame had been delivered, were in the windows, and he allowed those to stay there, but he said we must not receive any more, and he insisted that if the material was in the building, the dressers particularly, in the building the next day, he would call the men out on strike, the carpenters, so I immediately called Albro J. Newton Company on the 'phone and
2730 asked them to take away the dressers off the job, for the time being anyway. They came along next day or the day following, two delegates, and found that they were all right, that they were gone, and consequently the men stayed on the job.

Mr. Mayer: I move to strike out the latter prat of this answer on the ground that it is a conclusion, and the whole answer on the ground that it is incompetent, irrelevant, immaterial, hearsay, and not in any way involved

in the issues in this case, in no way binding on any of the defendants.

Mr. Beattie: Same objection.

Q10. When they returned, the dressers and material in question had been removed? A. Yes, sir.

Q11. What were the names of these men? A. The man I knew, his name was O'Grady.

Q12. Do you know his first name? A. No, I do not.

Q13. Would you know it if you heard it? A. Why, I might; I have let it go from my mind, not 2712
being interested in it.

Q14. Can you state whether or not it was William O'Grady? A. I would not want to.

Q15. Do you know the name of the other man he introduced you to? A. I have a recollection that his name was—at least, an idea that his name was Erickson, but I am not sure on that point.

Q16. That is the best of your recollection? A. That is the best of my recollection.

Q17. When did this take place? A. My recollection is, about the middle of September, 1910.

Q18. Do you know the amount of your contract 2713
with Newton, in round numbers? A. No, I do not.

Q19. Would it amount to $7,000? A. No, I think not.

Q20. Would it exceed a thousand dollars?

Mr. Maloney: I object, as immaterial.

A. Yes, sir.

Cross-examination by Mr. Beattie—

XQ21. What are dressers? A. These were kit-

chen dressers for storing china and kitchen utensils.

XQ22. How many were there of them? A. Sixteen, I think.

XQ23. What are they worth? A. Oh, in the neighborhood of $12, $10 or $12.

XQ24. Well, were they brought back afterwards? A. They were; yes, sir.

XQ25. And who put them up? A. My men put them up.

XQ26. The same men put them up? A. Yes, sir.

2735 XQ27. How many men did you have altogether, carpenters? A. Perhaps 100, at times.

XQ28. I mean, when these two gentlemen called on you, Mr. O'Grady and the other one, how many did you have then? A. I might have had a hundred.

XQ29. Did you tell these carpenters that this was non-union material before you hired them? A. No, sir.

XQ30. Did you know it was part of the rules of the union not to work on non-union material? A. I know that that is the rule here.

XQ31. You knew that that was the rule before you hired the men? A. Yes, sir.

2736 XQ32. Was there anything on the material to indicate where it came from? A. No, sir. They followed it from the factory to the building.

XQ33. How much wages were these men paid, these carpenters? A. Union rate, $4.50 a day.

XQ34. Who was the contractor on the job? A. There was no contractor.

XQ35. Well, you were superintendent of the job? A. I was superintendent for the owner.

XQ36. Who was the owner? A. George E. Lovett.

2737

XQ37. How long before the dressers were brought back, after they were removed? A. Perhaps a month or six weeks.

XQ38. Are you carrying on any building operation now? A. No, sir.

XQ39. Have you carried on any since? A. Not much.

By Mr. Maloney—

XQ40. As I understand it, Mr. Allen, there was no strike, then, on this job? A. There was no strike, not of carpenters.

2738

XQ41. And the material referred to was finally put up by the same carpenters? A. Yes, sir. Well, we might have changed carpenters.

By Mr. Mayer—

XQ42. The union carpenters? A. Yes, union carpenters.

By Mr. Maloney—

XQ43. There might have been some of the men who were changed? A. No doubt but what there were.

2739

By Mr. Mayer—

XQ44. They were all union carpenters? A. Yes, sir.

By Mr. Maloney—

XQ45. They never stopped work at all, did they? A. No, sir.

XQ46. Do I understand that when the men came

2740 Alfred G. Foote for Complainant—Direct.

there, these two men you have referred to, they said that the men would not work on the material because it was non-union material? A. No, sir; they said that if we did not take the material out of the building by the next morning, they would call the men out.

XQ47. That was all they did say? A. Yes, sir

XQ48. Did you understand what they meant? A. I did, perfectly.

2741 Mr. Mayer: I move to strike out all the testimony of this witness on the ground that it is incompetent, irrelevant, immaterial, affecting the Newton trim only, and not in any way affecting the complainants in this action or any of them, and as hearsay.

Mr. Beattie—Same motion.

Subscribed and sworn to before me this day of , 1912.

2742 Alfred G. Foote, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your name, age and residence? A. Alfred G. Foote; age 38; 1417 53rd Street, Brooklyn.

Q2. What is the name of the concern with which you are connected? A. John S. Loomis Company.

Q3. And in what capacity are you connected with it? A. Clerk.

Q4. This is a Brooklyn concern engaged in the manufacturing of doors, sash, wood trim, etc., isn't it? A. Yes, sir.

Q5. About how many men does it employ? A. I should think probably 100; I really don't know.

Q6. Does the concern run a union shop or what is known as an open shop? A. What is known as an open shop.

Q7. In the course of its business, it purchases doors, sash and other kinds of wood material from other manufacturers, does it not? A. Yes, sir.

Q8. And you have done business with the Morgan Company, of Oshkosh, Wisconsin? A. Yes, sir. 2744

Q9. Can you give me the figures showing the amount of business you have done with Morgan & Company for approximately the last five years? A. Yes. The total amount?

Q10. Give me the figures per year.

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. 1907, $22,414.41; 1908, $15,293.22; 1909, $44,064.91; 1910, $34,444.01; 1911, $16,679.63. Practically to date. 2745

Q11. And do you know of your own knowledge that the John L. Loomis Company has purchased merchandise in that amount from the Morgan Company during the respective years that you have given? A. Yes, sir.

Q12. About what proportion of these purchases would be in doors? A. Why, I should say 90%.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrele-

2746 Hiram A. Lister for Complainant—Direct.

vant and immaterial, and having no bearing upon the issues, and as hearsay.

Mr. Mayer: Same motion.

(No cross-examination.)

Subscribed and sworn to before me this day of , 1912.

Adjourned until 2 P. M.

2747

PAINE vs. NEAL.

December 20th—2.15 P. M.

SAME APPEARANCES.

HIRAM E. LISTER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Hiram E. Lister.

2748 Q2. And what is your age, please? A. Thirty-eight.

Q3. And you reside in Brooklyn? A. East Rockaway, New York.

Q4. You are connected with the concern of Hardy, Voorhees & Company, are you not? A. I am.

Q5. In what capacity? A. Bookkeeper.

Q6. That concern is engaged in Brooklyn, as I understand it, in the manufacture of doors, sash blinds, etc.? A. Yes, sir.

Q7. And it is not what is known as a union shop? A. No, sir.

Q8. In the course of its business, it purchases merchandise from other manufacturers of doors, sash, trim, etc.? A. It does; yes, sir.

Q9. I will ask you if it ever does business with any of the complainants in this action, and if so, which ones. You will find their names here? A. Paine Lumber Company, Gould Manufacturing Company, the Morgan Company; that, I guess, is about all that I can find.

Q10. Can you give me the figures showing your purchases from these respective plaintiffs? A. I can. 2750

Q11. Give me the figures showing your purchases from the Paine Lumber Company for the last few years?

Mr. Beattie: I object, incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. 1906, to and including 1911, $21,764.96.

Q12. Will you give it to me by the year? A. 1906, $3,320.79; 1907, $856.08; 1908, $282.99; 1909, $2,864.48; 1910, $8,876.69; 1911, $5,563.93, making a sum total of $21,764.96. 2751

Q13. Give me the same figures in regard to the Morgan Company? A. Morgan Company, 1910, $43.20; 1911, $1,186.97, making a total of $1,230.17.

Q14. Now, will you give me the same figures in regard to the Gould Manufacturing Company? A. Gould Manufacturing Company, 1909, $822.70; 1910, $1,041.44, making a total of $1,864.14.

Q15. You are the bookkeeper for Hardy, Voor-

hees & Company? A. I am one of them, handling these accounts.

Q16. And you took these figures from the books yourself? A. I did.

Q17. And compared them with the books? A. And compared them with the books.

Q18. Then you are ready to swear that they are correct, according to what appears on your books? A. I am.

Q19. And you do so swear? A. I do.

Q20. Are these books which you refer to, books
2753 kept in the ordinary course of business? A. They are.

Q21. And are these books of original entry? A. They are.

Q22. And were the various entries made in the books on or about the dates when the transaction took place? A. Yes.

Mr. Mayer: I move to strike out the testimony of this witness, incompetent, irrelevant and immaterial, hearsay, not proper proof of the facts intended to be approved thereby, and not bearing on the matters in controversy in
2754 this action.

Mr. Beattie: Same motion.

(No cross-examination.)

Subscribed and sworn to before me this day of , 1912.

LESTER A. LEWIS, a witness called on behalf of Complainants, being duly sworn, testified as follows

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Lester A. Lewis.

Q2. And you are connected with Albro J. Newton Company of Brooklyn? A. I am.

Q3. And that concern is engaged in the manufacture of doors, sash, blinds, etc., in the Borough of Brooklyn, is it not? A. They are, yes. 2756

Q4. And does it operate what is known as a union or open shop? A. Open shop.

Q5. About how many people do you employ in your mills? A. At the present time, about 125.

Q6. In what capacity are you connected with the company? A. I am vice-president of the company and act as salesman.

Q7. You are the active salesman, you say? A. I am.

Q8. Your concern, in the course of its business, purchases wood materials from other concerns, does it not? A. They do.

Q9. Look at the list of plaintiffs in this action 2757
and tell me which, if any of them, you purchase materials from? A. Paine Lumber Company and the Morgan Company.

Q10. Do you have charge of the department which makes these purchases? A. I have.

Q11. Will you state in round numbers the approximate amount of business you have done with the Paine Lumber Company during the past five years?

Mr. Maloney: Objected to, incompetent, ir-

2758 Lester A. Lewis for Complainant—Direct.

relevant and immaterial, and not the best way to prove it.

Mr. Mayer: Same objection.

A. In the last five years, our account would amount in round numbers to $45,000.

Q12. Would that average about the same in the various years? A. It would mean about an average yearly business as far as I went back, of $9,000 a year.

Q13. And how far back is that? A. I went back
2759 five years.

Q14. And you mean by that, that the amount of business you have done with that concern each year is approximately $9,000? A. Each year, yes.

Q15. Can you tell me how much business you have done with the Morgan Company? A. Approximately, about $2,000 a year in the same time, it would mean $10,000 for the five years, some years more and some less.

Q16. How much of this business is in doors? A. This statement that I am making is all doors.

Q17. Then, there may have been some business outside of doors which you did with some of these
2760 concerns? A. We may have bought lumber; we may have bought lumber inside of that five years, I don't know.

Q18. In September, 1910, did you receive any information from any of your customers as to any strikes on any of their building enterprises?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. We received notice from, I think, eight in all, that their jobs had been struck.

 2761

Q19. And I will ask you whether the doors of the Paine Lumber Company were furnished by you for any of those jobs?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. Three that I know of, the goods went into their job.

Q20. What were those three? A. Mr. W. B. Martin, F. B. Norris, W. C. Bush. I think that is all that I recall now—O'Brien & Co., four. 2762

Q21. Is that O'Brien Brothers? A. Well, I presume it was a company, it might be O'Brien Bros.

Q22. Do you know where the job was located? A. In the Flatbush section.

Q23. A witness came here and testified—by the name of William R. Rogers—that he was head carpenter for O'Brien Brothers, on dwellings on Fort Hamilton Avenue, near Ocean Parkway—is that the job to which you refer? A. Yes, and that man was foreman of the job.

Q24. He was foreman of the job you had in mind? A. Yes. 2763

Q25. And there were Paine Lumber Company doors furnished for that job? A. Yes.

Q26. Do I understand that you are not willing to testify that there were Paine Lumber Company doors on any of the other jobs? But are you familiar enough to testify that there were no Paine Lumber Company doors on the other jobs? A. No, I did not inform myself as to that. But I know these four, their goods went into the operations.

2764 Lester A. Lewis for Complainant—Cross.

Cross-examination by Mr. Beattie—

XQ27. These customers did not inform you that these eight strikes were because of any of the Paine doors, did they? A. No, because it came from our establishment.

XQ28. Because these doors came from you? There is nothing on the doors to tell where they came from? A. I could not say whether there were on these doors, but very often Paine people and Morgan put their names on the edge of the door.

2765 XQ29. Well, very often they don't? A. Well, the majority of doors are stamped with their initials.

XQ30. Don't you take the names off doors and sell them to customers at their request under cover at times? A. No, sir. When we sell them a western door, we deliver it to them.

XQ31. How about the rest of the trim? Do you sell in Manhattan? A. No, our trade is largely local, Brooklyn.

XQ32. Don't some of your customers request you to send them trim, doors or other mill products, under cover and remove all evidence of where they come from? A. We don't have any such trouble

2766 as that.

XQ33. You have not had any such requests? A. Not at all. We had one party that wanted us to do that and we told him to cart his own doors.

XQ34. To cart his own doors? A. From our place.

XQ35. What did that mean? A. Their own trucks. That is one simple job in New York and we requested him to provide his own cartage.

XQ36. But you did take the labels off the doors

2767

and trim? A. I never took a label off a door since I have handled it.

XQ37. Do you put a mark on your sash or any other mill products to indicate that they come from your concern? A. No, sir.

XQ38. Then workmen that are handling goods from you cannot tell where they come from? A. Except by the branding of the door on the edge.

XQ39. That would not indicate that they came from you? A. It would indicate the manufacturer.

XQ40. But there would be nothing to indicate they came through you? There are other people handling Paine doors, I suppose? A. No, a stranger could not come there and say where they came from, because other people handle the Paine and the Morgan doors in Brooklyn.

2768

XQ41. On those eight buildings, there was nothing on four of those buildings, that is as to the woodwork, to indicate where that came from? A. No, because we manufacture the interior, with the exception of the doors.

XQ42. And that applied to the whole eight jobs? A. Yes, with the exception of the doors.

2769

By Mr. Maloney—

XQ43. With the exception of the doors on four of them? A. Yes, the other four, I did not refresh my memory sufficiently to testify that the other goods came from there.

XQ44. Did any of those doors come from the Morgan Company? A. They came from the Paine people, that lot of doors.

XQ45. We are speaking of the whole eight jobs? A. I don't think the Morgan doors were used on

those jobs; we were using the Paine door largely then.

XQ46. Don't you make your own doors? A. Not interior doors, not all of them.

XQ47. You don't make any interior doors? A. We make a high grade of door, when a customer demands a higher grade than they make west. We flatter ourselves——

XQ48. Then there was no high grade doors demanded on any of these jobs? A. We make high grade doors ourselves; yes, sir.

2771 XZQ49. Did any of the customers on those eight jobs that you say strikes were on, order any of these high grade doors? A. For the front and vestibules.

XQ50. Only for them? A. Yes, the interior were stock doors.

XQ51. And you don't put a mark on your high grade doors, either? A. Not our mark; no, sir.

XQ52. Your company, the Newton Company, procured an injunction against certain carpenters in Brooklyn about a year ago, didn't it? A. Yes, sir.

XQ53. How many carpenters did you have in your employment when you secured that injunc-
2772 tion? A. How many carpenters?

XQ54. Yes? A. There were not any carpenters in the injunction.

XQ55. In your mill, how many were employed at that time? A. Probably from 125 to 150; 150 is our running capacity.

XQ56. Are those all carpenters? A. No, sir; carpenters and cabinet makers, we number about 65.

XQ57. Did you, at the time you got the injunction? A. Oh, yes.

XQ58. How many do they number now? A. They number the same now.

XQ59. The injunction did not operate to increase your business in any way, did it? A. Increase it?

XQ60. Yes. A. No, it had a tendency to decrease it, that is, it increased our business after the carpenters found that they could buy goods of us and not have their buildings struck. It fell off previous to the time we got that injunction out.

XQ61. And it has not increased it to such an extent that you have employed a single extra carpenter, though, has it? A. Our running capacity on carpenters is about the same as it was then. 2774

XQ62. Well, in the last five years, there has been about the same average dealing with the Paine Company, each year? A. It would approximate——

XQ63. It has not fallen off any? A. No.

XQ64. You did as much five years ago as you do now? A. It has increased in the last year, my business has, with them.

XQ65. And has it increased also with the Morgan Company? A. Yes, it has.

XQ66. A steady increase from five years ago, or just in the last year? A. Our purchases from those two parties have exceeded—this last year has been better than the preivous five years, for any year. 2775

XQ67. So it was two years ago better than three years ago for both of them? A. I can give you a little idea, perhaps. Well, the last year will show quite an increase over other years, quite a little increase over the other years.

XQ68. In the case of both concerns? A. Yes.

XQ69. Well, has it been a steady increase for the last five years, as to each of them? A. No.

2776 There is one year here there seems to have been a dropping off, and it was better the next and this last year—three years ago our trade was not very heavy, it was not so good as the preceding year.

XQ70. That is three years ago? A. Yes.

XQ71. Was two years ago better than three years ago as to both of these concerns? A. That is, the latter part of the year was better.

XQ72. And how about the whole of the year, taking it as a whole? A. The whole of the year would approximate better than three years ago.

2777 XQ73. As to each of these concerns? A. Yes.

XQ74. Well, how are you able to say that on four of the eight jobs that were struck, there were Paine doors and Morgan doors? Is it part of your business to see about delivery of doors? A. Part of my business is to do the buying of the doors, and I know where the doors came from and I know which doors are delivered.

XQ75. Well, they are not bought for certain jobs, are they? A. Many times they are.

XQ76. And aren't they stock doors? A. Not always.

2778 XQ77. Well, how about these four concerns where you say Paine doors were, weren't they stock doors? A. They were. The ordered doors are usually one-panel door, made specially to an order.

XQ78. Well, these doors for these four jobs were not ordered for these particular jobs, were they? You had these stock doors in stock yourself, I suppose? A. We carry them in stock.

XQ79. Do you carry Morgan doors in stock, too? A. We have them now.

XQ80. Anybody else's doors in stock? A. Paine and Morgan.

XQ81. You have never handled any union doors, in the last five years? A. I have only handled the Paine and the Morgan door.

XQ82. Well, you know they are not union? A. I don't know what they are, I never asked them, that is a question I don't ask a man when I am buying goods of him, whether he is a union shop or an open shop.

XQ83. Well, how did you come to bring this action against the carpenters in Brooklyn? Who induced you to do that? A. Why, for our own protection. 2780

XQ84. Well, how did you come to select your attorney in that case?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial, and having no bearing upon the issues in this action.

A. That is a great question, I think, how we came to select a lawyer. We left that to the president of our concern to select who he thought was the best. I did not make any suggestion in that matter.

XQ85. Did you select your lawyer at all in that regard? A. I did not. 2781

XQ86. Or did the American Anti-Boycott Association? A. Our president attended to that part of the business.

XQ87. Did you have any say about it? A. I had him go ahead and do what he thought was proper.

XQ88. Did you inform the American Anti-Boycott Association that you intended to bring such an action, or did they solicit you to bring that action?

Mr. Merritt: Same objection, and on the

further ground that the question should first be preceded by a question as to whether he knows anything about it. It does not appear so far that the witness knows anything about the arrangements for the commencement of the suit.

Mr. Mayer: I object to the counsel prompting the witness.

A. As I said before, I had nothing to do with that part. I told Mr. Newton to act as he thought
2783 best in the matter.

XQ89. Well, had you seen circulars of the American Anti-Boycott Association which said in effect that they would bring actions without any expense and furnish lawyers to bring them, if they approved of the action submitted to them?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial, and also because it is calling upon this witness to testify concerning the contents of circulars, which is not the best evidence.

2784 A. I have not seen any such.

XQ90. Do you know whether your company has paid any money to prosecute that Newton action against these carpenters?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial.

A. I don't know any further than to know, if we contract bills, we pay them.

XQ91. Did you contract this bill? A. I expect we did, I expect our president did.

2785

XQ92. Don't you know anything about it? A. I left that matter to Mr. Newton to act as he thought proper.

XQ93. I am asking you. Do you know? A. No, I don't know.

XQ94. You don't know whether you are paying any money to prosecute the Newton action? A. I can't swear we have paid a dollar.

XQ95. Can you swear you have not paid a dollar? A. No, I can't swear, because I don't know.

XQ96. And Mr. Newton has not spoken to you about that? A. If he contracts bills, he pays them.

2786

XQ97. Does Mr. Newton contract bills, or is there a board of trustees, or of directors? A. Well, each one attends to his own department.

XQ98. Have you got a board of directors? A. Why, we constitute a board of directors, Mr. Newton and myself and the secretary.

XQ99. Now, you have held meetings, haven't you? A. Yes, sir.

XQ100. Hasn't the question of who was to pay for this action against the carpenters that your corporation has brought, come up at these meetings?

2787

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial.

A. No, sir.

XQ101. Hasn't it come up in the meetings in any way at all?

Mr. Merritt: Same objection.

A. It has not.

XQ102. Do you keep minutes of these meetings? A. We do.

2788 Lester A. Lewis for Complainant—Cross.

XQ103. And do you mean that this action is altogether conducted at the instance and under the direction of the president, without any interference or suggestion from the board of directors?

Mr. Merritt: Same objection.

A. It has.

XQ104. Who pays out the moneys of the corporation? A. The secretary.

XQ105. On his signature alone? A. Yes.

2789 XQ106. Do you sign any checks of that sort? A. No.

XQ107. Is your corporation a member of the American Anti-Boycott Association? A. I don't know that, whether they are or not.

XQ108. Hasn't that matter of membership come up before your board of directors?

Mr. Merritt: Same objection.

A. No.

XQ109. Haven't you any knowledge on the subject, as to whether your corporation has turned any money over to the American Anti-Boycott Associa-
2790 tion?

Mr. Merritt: Same objection.

A. I don't know personally.

XQ110. In connection with that case? A. I don't know personally.

XQ111. Well, do you know otherwise than personally? A. I don't know at all.

XQ112. Have you any information on the subject?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial, and further, as calling for hearsay evidence in asking him whether he has information on the subject; he can only testify to matters of his own knowledge.

2791

A. No. Our concern is perhaps peculiar in a sense. Mr. Newton is president, his son is secretary and I am vice-president and a brother-in-law. We don't interfere with each other's branch of the business; unless it is something very special, I don't take it up with them at all. Mr. Newton tells me to go ahead and buy goods for my department and sell them to the best advantage. If anything of this matter comes up, I tell him to go ahead with his judgment, and as to knowing directly or indirectly whether there has been a dollar paid or a thousand dollars paid, I could not tell. I don't bother my head with that branch at all. It is a family affair and i have confidence in my family.

2792

XQ113. Do you know who your attorney is in that Newton action? A. Yes, I know who the attorney is.

XQ114. And who is it? A. Mr. Merritt is representing them.

2793

XQ115. And is that the only attorney you have got? A. No, sir.

XQ116. Who is the other one? A. Mr. Brower.

XQ117. Do you know whether you are paying Brower anything? A. I don't look at the cash book, but Mr. Brower gets his pay for what clerical work he does for us.

XQ118. What about Mr. Merritt? Does he get recompensed? A. If Mr. Newton has contracted any bills with him he will see them paid.

2794 Lester A. Lewis for Complainant—Cross.

XQ119. I want to know if you know anything about these bills? A. I have told you, I do not.

By Mr. Maloney—

XQ120. Is it Mr. Brower, or Mr. Brewster? A. Mr. George V. Brower.

XQ121. In the Newton case? A. No, not in the Newton case. He asked if there was any other attorney.

XQ122. He means in the Newton case? A. I
2795 have heard Mr. Brewster's name mentioned.

By. Mr. Beattie—

XQ123. You don't know whether he is your attorney or not? A. I have nothing to do with that branch of the business.

XQ124. You don't know whether he is your attorney or not? A. I have understood that he was.

XQ125. Do you object to bringing the minutes here of your board of directors until we find out about this thing? A. The secretary would probably do that.

XQ126. But we would like you to do that? A.
2796 Well, I can't object to it if it is ordered by the court.

XQ127. Well, there is no reason for concealing this is there? A. Not in my case.

XQ128. Doesn't it seem odd to you that a vice-president and director should not know anything about a matter of this sort? A. Not at all, I don't think, in our case. I don't think it is remarkable. Mr. Newton runs the financial part of the concern and I attend to the other.

XQ129. Well, we would like to see those minutes

for the past year of the directors. If you will bring them at the next meeting it will save us a lot of trouble.

By Mr. Maloney—

XQ130. When did this question of litigation by Newton against the carpenters arise? A. Why, I can't tell you definitely. I think it was in August or September that our concern was boycotted, August or September I think it was, I don't just recall the time.

XQ131. You think that in August or September, 2798
1910, there was some boycott against you by the carpenters? A. Yes, I forget the date, it might have been earlier.

XQ132. Was it about that time that the subject of instituting suit against them arose? A. Why, we found that we were boycotted to such an extent that we could not deliver a dollar's worth of goods.

XQ133. That was not what I asked you. Was it about that time that the question of instituting suit against them arose? A. I don't know. It was about three or four weeks afterwards when we saw how serious it was.

XQ134. Where did you take up the subject of 2799
discussing the commencement of the suit? A. Where was I when they took it up?

XQ135. Yes? A. I suppose I was in the office.

XQ136. And who was present? A. Mr. Newton and the secretary.

XQ137. The secretary is his son? A. Yes.

XQ138. Mr. Newton is a very old man? A. Yes, sir.

XQ139. Rather feeble? A. I would not call him so.

XQ140. Does his son attend mostly to his business? A. Mr. Newton is able to attend to his own, he is there at business every day, a well preserved man.

XQ141. What was said about the litigation when it came up for discussion? A. Why, I can't recall the various conversations. The idea was, that we were boycotted, and we had to do something desperate or we would have to shut our place up.

2801 Mr. Merritt: I want to renew my objection to this entire line of testimony, as incompetent, irrelevant and immaterial, and I move to strike out the whole evidence concerning the matter in which the suit was commenced or the attorney employed or the discussions relative thereto.

XQ142. Did you send for your attorney then? A. No, sir; we did not send for him. We went to see him.

XQ143. You went to see him? A. Mr. Newton took charge of that, and after that day——

XQ144. Did you see the attorney? A. I did not, I had nothing to do, as I told this gentleman, nothing to do with the financial part of it at all.

2802

XQ145. When Mr. Newton went to see the attorney, did he come back and say he had engaged an attorney? A. He told me in conversation afterward he was going to handle the case for us.

Mr. Merritt: Same obection and move to have answer stricken out.

XQ146. Who did he say was going to handle the case? A. I think he mentioned Mr. Brewster's name, and Mr. Merritt.

2803

By Mr. Mayer—

XQ147. That is the Mr. Merritt who is the attorney here, who examined you in this case?

Mr. Merritt: Same objection.

A. Yes.

XQ148. Did he mention the American Anti-Boycott Association?

Mr. Merritt: Same objection.

A. Not to me.

2804

XQ149. Did he mention it to anyone else in your presence? A. I don't recall that he did.

XQ150. Is it a failure to recollect, or a positive statement on your part that you cannot remember? A. I tried to impress on you gentlemen that I don't attend to the financial part of the concern.

XQ151. Are you a stockholder in the company? A. I am.

XQ152. To a considerable extent? A. Not very heavy.

XQ153. Your interest is more than nominal? A. Well, you could consider it so, but not heavy.

2805

XQ154. Did you ever hear of the American Anti-Boycott Association before to-day?

Mr. Merritt: Same objection.

A. I have heard of such a concern.

XQ155. Where?

Mr. Merritt: Same objection.

A. I have read the papers enough to know that there was such an association.

2806

XQ156. And do you recall what papers you saw it in? A. The Brooklyn Eagle.

XQ157. And when did you see it? Before you started the Newton suit?

Mr. Merritt: I want it understood that my objection lies to this entire line of examination.

A. I could not recall whether it was before or after. I did not pay any attention to it at all.

XQ158. When the discussion took place about
2807 the institution of a suit against the carpenters between Mr. Newton, the president, and his son, the secretary, and yourself, did it then appear that your corporation was a member of the American Anti-Boycott Association? A. That was not discussed.

XQ159. You are sure about that? A. Yes, sir.

XQ160. How long did the discussion last? A. It might have lasted five or ten minutes.

XQ161. At a board meeting? A. No.

XQ162. How long after that discussion was it that you learned from Mr. Newton that Mr. Merritt was the attorney who was to institute the suit?
2808 A. I have no recollection.

XQ163. Is your memory better on these other matters relating to the business with Morgan and Paine and the strikes than about the facts relating to the institution of this suit? A. Most assuredly, because I know more about it. That is part of my business.

XQ164. Has there been any effort, so far as you know, on the part of the president and secretary, to conceal from you the facts surrounding the insti-

tution of this suit by Newton & Company against the carpenters? A. Not that I know.

XQ165. Have you ever talked with them about the litigation? A. Not especially.

XQ166. After it was commenced? A. No.

XQ167. Did you go and talk to any of the eight persons who had strikes on their jobs after you procured the injunction? A. I saw them and left the word and told them that they could use our material.

XQ168. Did you tell them that you had an injunction? A. Yes, I did. 2810

XQ169. How did you know that? A. I could see that in the paper.

XQ170. You did not know that from any other source? A. I did, Mr. Newton told me, and I saw it in the paper.

XQ171. Did you read the injunction papers at all? A. I did, as published.

XQ172. Did you read them either before or after the suit was instituted? A. No, I read it after the injunction was granted.

XQ173. I am speaking of the papers in the suit? A. Oh, no; I never saw them.

XQ174. You never saw the papers? A. No. 2811

XQ175. Do you know anybody connected with the Paine Company? A. I do.

XQ176. What is his name, please? A. Mr. Rossi, salesman.

XQ177. Did you ever talk with Rossi about any suit by the Newton Company?

Mr. Merritt: Objected to; incompetent, irrelevant, immaterial, and hearsay.

2812

A. No.

XQ178. Did you ever talk to Rossi about any suit by the Paine Company against the carpenters?

Mr. Merritt: Same objection.

A. He told me that they were having a suit, at one interview I had with him, that they were having a suit.

XQ179. And when was that?

Mr. Merritt: Same objection.

2813

A. Oh, probably six months ago.

XQ180. Well, you don't attend to the financial end of the business at all, do you? A. No, sir.

XQ181. And you don't have anything to do with the books at all? A. No, sir.

XQ182. Your business is confined entirely to the sales and to the purchases? A. Yes, sir.

XQ183. The information which you brought here to-day regarding the facts you have testified to on your direct examination, was furnished to you by someone in the employ of the company? A. The bookkeeper took it off his ledger, and I was with him when he did it, called off the amounts of the different months.

2814

XQ184. Who requested you to come here and testify here to-day? A. The secretary of our concern asked me to come here.

By Mr. Mayer—

XQ185. Do you know why they sent you over instead of sending over the president or the secretary of the company whom you say are familiar with

the situation? A. No, sir; I have no knowledge of it.

XQ186. Was there any preconceived plan to send you over so that you could not answer material questions put to you in this matter? A. No, sir; it was not mentioned to me.

By Mr. Maloney—

XQ187. Did you know that the Paine Lumber Company and the Newton Company were both members of the American Anti-Boycott Association, and that this suit and the other suit was being conducted by the American Anti-Boycott Association? A. I don't know that either of them are members of it. 2816

XQ188. You don't know anything about it? A. No, sir.

By Mr. Beattie—

XQ189. Did you ever see Mr. Merritt before today? A. I think I met him once at a dinner, didn't I?

Mr. Merritt: I think you did, but it is only because someone told me so. I had forgotten it. 2817

A. Yes, I think I met Mr. Merritt at a dinner.

XQ190. Have you met him on any other occasion in the last year? A. Never but once before today, and that was at that dinner.

XQ191. Have you ever been at the offices of the American Anti-Boycott Association? A. No, sir.

XQ192. Do you know where they are? A. No, sir.

2818

XQ193. Mr. Bower, to whom you have referred as attorney, has nothing to do with the litigation of Newton & Company against the carpenters, has he? A. I don't think he has.

XQ194. And you merely referred to him as being an attorney—— A. This gentleman asked me if we had any other attorney.

XQ195. You simply referred to him as an attorney for the company in matters generally? A. That is what I referred to.

2819

By Mr. Mayer—

XQ196. Mr. Brower is an attorney in Brooklyn, who was formerly Park Commissioner? A. George V. Brower.

By Mr. Maloney—

XQ197. He is a prominent attorney in Brooklyn? A. Yes, sir.

By Mr. Mayer—

XQ198. And he is your regular attorney? A. Yes.

2820

By Mr. Maloney—

XQ199. Do you know Mr. Brower personally? A. I do.

XQ200. And he usually acts for your company in matters for them? A. Yes, sir; he does.

By Mr. Beattie—

XQ201. Wasn't the reason why you did not give Mr. Brower this case, that you would have to pay

Mr. Brower for his services, and you don't pay Mr. Merritt?

Mr. Merritt: Same objection.

A. If we employ a man to do anything for us, we pay him, that is our reputation.

XQ202. But if this association advertises—— A. I don't know anything about the association.

XQ203. Well, I am going to tell you. If this association advertises to furnish lawyers for nothing, your concern would not feel obligated to pay an attorney from that association, would it? 2822

Mr. Merritt: Same objection, and improper in form, purely hypothetical.

A. I don't know any such proposition.

XQ204. Now the dinner that you met Mr. Merritt at, was a dinner of the Veneered Door Association, wasn't it? A. No, sir.

XQ205. What was it? A. It was a luncheon at the Hamilton Club.

XQ206. Are you not a member of the Veneered Door Association? A. Am I?

XQ207. Your corporation? A. No, I don't think 2823 they are. I am not.

XQ208. Didn't you attend a dinner of men in your business at which Mr. Merritt made some address in connection with the Anti-Boycott Association?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial.

A. He did not make any remarks at the luncheon I was at.

2824

XQ209. At this particular dinner? You were not at another dinner at which he did make remarks? A. No, sir. This was a noon-day lunch, and he made no remarks.

Re-direct examination by Mr. Merritt—

RDQ210. Has it ever been the custom of your company to mark the materials produced in your mill so that they would indicate where they came from? A. Never.

RDQ211. How long have you been in business?
2825 A. I have been with the firm, started with the firm in 1867 and have been there ever since.

RDQ212. Is there anyone connected with your company that would be better acquainted with the question of the purchases which your company makes from the Morgan Company or the Paine Lumber Company? A. Than I?

RDQ213. Yes. A. There is not anybody else that makes any, I do it all.

Mr. Beattie: I move that his evidence be stricken out on the ground that it is incompetent, irrelevant and immaterial, and does not
2826 bear on the business of the plaintiffs in any material way.

Subscribed and sworn to before me this day of , 1912.

George Gough for Complainant—Direct. 2827

GEORGE GOUGH, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. Your name is George Gough and you reside in Brooklyn? A. Yes, sir.

Q2. And you are a member of the firm of Church & Gough? A. Yes, sir.

Q3. And they are builders, are they not? A. Yes, sir.

2828

Q4. In the early part of October, 1911, you were erecting certain buildings on Howard Avenue and Bainbridge Street, in the City of Brooklyn? A. Yes, sir.

Q5. And you had purchased the trim or wood materials for those buildings from the firm of Louis Bossert & Son? A. Yes, sir.

Q6. About when did you make that contract with Bossert?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, in no way binding on any of the defendants in this action, not in any way connected with the issues herein.

2829

Mr. Maloney: And not pleaded and as supplemental to the bill without any supplemental pleading, and as attempting to raise a different issue.

A. Well, I don't know about when I made that. May, was that, or June?

Q7. You think it was sometime in the spring? A. Yes, sometime in the spring of 1911.

Q8. Did anyone ever come around to you and ask

you where you were buying the trim from? A. Yes, sir.

Q9. Do you remember the man's name?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Yes, sir. Duhy or Duhey——

Q10. Dhuy? A. Yes, I think so; I don't know how to spell it.

Q11. Do you know his first name? A. No.

Q12. Would you know if you heard it? A. No,
2831 sir.

Q13. Frederick Dhuy? A. I don't know. He is delegate for that district, anyway, so that is the same man, he has been up there all the time.

Q14. How do you know he is delegate? A. Because he has been around the job several times before, years previous to that.

Q15. Has he ever told you he is delegate? A. Oh, yes. I know he is delegate.

Q16. Delegate—— A. Delegate for the Amalgamated Carpenters of that district.

Q17. And when was it he came and inquired concerning the trim from you? A. That was about
2832 two weeks before the job was started, about two weeks before, sometime about in October was it? Two weeks before that he came to me, and he stood there talking, and he said, "Where are you getting your sash?" I said "From Bossert." He said "It's too bad you couldn't get trim from somebody else instead of getting it from him. How is it, because you get it cheaper, or what?" I said, "Not necessarily. I have dealt with him a good many years, and he has always treated us right, and I did not feel as though I wanted to go away from him."

George Gough for Complainant—Direct. 2833

Q18. Did he say anything further about him to you at that time? A. No. He says to me, "Didn't you have a paper not to use any non-union trim?" I said, "No." He said, "It was intended that you should get one"—intended that I should get a paper stating that we should handle only certain trims.

Q19. He stated that to you? A. He asked me, did I get a paper.

Q20. Did you ask him anything about Bossert, or why he objected to Bossert? A. Not at that time.

Q21. When did you next see this Mr. Dhuy? A. 2834
I did not see him any more. He came that Saturday morning, and he told the carpenters they were to finish out the morning, but on Monday they were not to start work. My partner was there on the job that time and he told me that he came and stopped the job.

Mr. Mayer: I object to anything that happened two weeks later, when Dhuy came and spoke to his partner, and move to strike it out.

Q22. You were not there? A. I did not see him 2835
that day.

Q23. Did you go to the job on the following Monday? A. Yes.

Q24. There were no men working on the job there at that time? A. Only one man standing around to see the job, what is going in. I think it would be as well to strike that out at that time, that is when he asked me did I have a paper from the Carpenters' Union. He did not ask me at that time. There was

2836 George Gough for Complainant—Direct.

nothing said about that until I told him to come up and see what the trouble was.

Q25. When did you see him next? A. I came on the job on Monday as he told the carpenters not to go to work on the Saturday, and my partner told me Saturday that the carpenters were not going to work any more. I did not see him any more until, I think it was, Wednesday morning. I sent word that I wanted to see him.

Q26. Where did you send word? A. I think I sent word down by one of the carpenters that was
2837 watching the job.

Q27. Well? A. He came up, and I said to him "What was this job stopped for?" He shrugged his shoulders, did not say anything. So I said "Was this job stopped because I am using Bossert's material?" No, I said "What was this job stopped for?" He said "Using their material, non-union material." "Well," I says, "Is it stopped because I am using Bossert's material?" "Well," he says "non-union material." He would not commit himself on that, and I said "What condition can this job go on? What do I have to do to let this job go on?" "And" I says "I don't think that it was
2838 right that you should stop the job. I have never been notified not to take Bossert's material." "Well," he said, "it was intended that you should be, everybody else was." And I said "How can this job go on? Under what condition?" And he said "By signing a paper that you would not use any more non-union material."

Mr. Mayer: I move to strike out the answer of the witness as involving the trim of persons other than complainants, in no way connected

with the issues in this case, incompetent, irrelevant and immaterial.

Q28. Did you sign such paper? A. Yes.

Q29. Have you a copy of that agreement? A. I have not, I only made one out.

Q30. And what did you do with that? A. Gave it to him.

Q31. And what were the contents of it, as nearly as you can remember?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial, not the best evidence. 2840

Mr. Merritt: I call upon the defendants to produce the paper which the witness says he signed and handed to Dhuy.

A. We, Church & Gough, hereby agree hereafter if this job—hereafter—that we will not use non-union trim, providing this job is not stopped until completion. Yours, Church & Gough. That is about is about the size of it.

Q32. What was the material which you had purchased from Bossert & Son on this job? A. Sash, doors and blinds, window frames—window frame, 2841 sash, doors and blinds.

Q33. About what was the value of the contract with Bossert?

Mr. Maloney: I object to that; incompetent, irrelevant and immaterial.

A. Well, that contract——

Mr. Maloney: I move to strike out the answer.

2842

A. Was $5,000.

Q34. You mean approximately? A. No, about $5,000. I have that home, you know, that contract.

Cross-examination by Mr. Beattie—

XQ35. Have you done any building since? A. Oh, yes; I am building now.

XQ36. Are you buying any non-union material for it? A. I am buying non-union material, yes.

XQ37. Where are you buying it from? A. I don't know whether you call non-union material lumber;

2843 only lumber, you know. I am only buying lumber.

XQ38. How about trim? Where are you buying trim? A. Oh, we have not given any trim out yet.

XQ39. Have you given out contracts on any of the jobs for trim since this job you have testified about? A. No. I am only waiting for the end of this case. I am holding that back for this case.

XQ40. What case are you holding back for? A. The case that is going to be tried.

XQ41. What case are you referring to? A. The Newton case.

XQ42. Then who are you going to buy it from? A. Buy it from anyone if that is decided——

2844 XQ43. In Newton's favor? A. In Newton's favor.

XQ44. Regardless of your agreement? A. Yes.

XQ45. Well, you started to say that you had ordered it, but were not telling anybody—— A. No, the rough lumber. I don't know whether you consider that as trim, the rough lumber, the beams.

XQ46. That is not covered by your agreement, is it? A. Not as I know of; that was trim. I was getting the rough lumber from Bossert.

XQ47. But you have not made any contract for the trim? A. No contract at all.

2845

XQ48. With Bossert or anyone else? A. Not at all.

XQ49. And if there is a judgment in Newton's favor you are going to throw over this agreement with the carpenters? A. I think I am justified in doing so. I think that I have a right to give it to whoever I like, regardless of that, if the judgment is in Newton's favor. In Brooklyn, all the union sash and door, blinds, sash and trim, there is nothing——

XQ50. Wait a minute, we are not asking anything about that.

2846

Mr. Beattie: I renew that motion of Mr. Mayer's to strike out, as not bearing on any of the complainants' material, and as incompetent, irrelevant and immaterial, and hearsay.

Re-direct examination by Mr. Merritt—

RDQ51. How long have you been in the building business? A. How long? 27 years, 28 years.

Subscribed and sworn to before me this day of , 1912.

2847

Adjourned to Thursday, December 21, 10:30 A. M.

2848 George W. Crooks for Complainant—Direct.

PAINE vs. NEAL

December 21st, 1911, 10:30 A. M., at 1622, 25 Broad Street.

PRESENT:

COMMISSIONER SHIELDS
MR. MERRITT
MR. BEATTIE
MR. MALONEY
MR. MAYER.

2849 Hearing adjourned to 2 P. M.

PAINE vs. NEAL.

Hearing resumed, 2 P. M. Same appearances

GEORGE WESLEY CROOKS, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. George Wesley Crooks.

2850 Q2. And you are connected with the concern of W. D. Crooks & Sons, one of the complainants in this action? A. Yes, sir.

Q3. What position do you hold? A. Secretary.

Q4. How long have you been Secretary? A. Three years or longer, 4.

Q5. What is the business of the concern? A. We manufacture veneered doors.

Q6. Do you manufacture other kinds of wood materials? A. Some trim.

Q7. Some sash? A. Hardwood sash, a few. We

 2851

would come under doors, sash, doors and blinds, but 90% of our work is doors. We specialize in doors.

Q8. Can you state whether or not your concern is a union or open shop? A. It is open shop.

Q9. Does your concern, or has it discriminated against the employment of men because they belong to a labor union?

Mr. Maloney: I object to that as calling for a conclusion.

A. No, sir. 2852

Q10. And have you ever discharged anyone or refused to employ anyone because they belonged to any labor union?

Mr. Maloney: Same objection, and I move to strike out both answers.

A. No, sir.

Q11. How many people do you employ? A. About a hundred.

Q12. Where are your factories located? A. Williamsport, Pa.

Q13. And W. D. Crooks & Sons is a Pennsylvania corporation, is it not? A. Yes, sir. 2853

Q14. Has it any factories in any other State than the State of Pennsylvania? A. No, sir.

Q15. How many of the men in your employ are what you would call machine hands? A. I would say about 25% to 30%.

Q16. About how much is the annual amount of your sales? A. $200,000.

Q17. And about how much of the sales are made to customers in States other than the State of Pennsylvania? A. From $100,000. to $110,000.

Q18. About 50%? A. 50% to 60%.

Q19. How are your sales made? Do you employ travelling salesmen? A. Yes, sir.

Q20. Have you any salesmen in any particular localities? A. We have one man that is located in Jersey and another man that is traveling out of the office. I travel out of the office from Williamsport. A man located here in New York on a commission basis.

Q21. Your New York man is J. F. Richarz? A. Yes.

2855 Q22. And where is his office? A. 1123 Broadway.

Q23. Is he authorized to make sales for you and commit you to prices, etc.? A. No, sir.

Q24. Do I understand that all contracts are closed at your own office in Williamsport? A. In our own office. He submits lists for estimates, we make price direct to the customer, he follows it up and closes it whenever he can; sometimes he takes it up by 'phone; and prices have to be cut. He handles it and closes the business. He sometimes closes it after we have submitted it, and sends it in.

Q25. About how much business do you annually do in the State of New Jersey? A. Why, about
2856 $70,000., I would say; maybe $80,000.

Q26. Can you give me the amount of business you have sold to customers in the City of New York during the last few years.

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

A. In the City of New York our sales in 1907 were $1,600.; 1908, $10,125.; 1909, $25,846.; 1910, $26,524. The sales in 1910 were all made in the

first six months, and were delivered in the last six. In 1911, in the restricted district, we sold nothing; in the open territory our sales were $14,267.

Mr. Maloney: I move to strike that out as not responsive to the question.

Q27. What do you mean, Mr. Crooks, by the "restricted district"? A. Why, from the Battery to, I think it is, 177th Street; I am not just sure about that; but open territory would be Brooklyn and up in Yonkers, if that is in New York City; and New Rochelle. 2858

Q28. Why do you call it restricted territory, from the Battery up to the Bronx, or including part of the Bronx? A. That is a term that our customers have used with me, that is the reason, closed territory, or restricted territory.

Q29. Closed in what respect, is your understanding of the term? A. Closed to open shop mills.

Mr. Maloney: I move to strike all this testimony out as incompetent, irrelevant and immaterial, and not responsive to the question, and as stating conclusions and hearsay.

2859

Q30. And when you refer to the open territory, you mean territory which you understand is open to open shop mills? A. Yes, sir.

Q31. Then you mean to testify that in 1911 none of your business has gone into the territory covered by the Island of Manhattan or the Bronx? A. Yes, sir.

Q32. That all of that $14,000. odd worth of business that you did in 1911 was done in the City of New York, outside of what you have called the re-

2860 stricted territory? A. Yes. Some of it originated in New York, some of it went into Connecticut and up the Hudson, but for New York customers. We rarely ever had a chance to figure on anything in what was called closed territory. If they had a job at Albany, they would send that in and we would figure it and get the business.

Mr. Maloney: I move to strike out the answer as incompetent, irrelevant and immaterial, hearsay, statements of conclusions, and
2861 in no way binding upon these defendants.

Mr. Mayer: Same objection.

Q33. Can you state how much of the business in the years previous to that was done on the Island of Manhattan and in the Bronx? A. I would say 60%; 60% or 70%.

Q34. When did you first employ salesmen to act for you here in New York? A. I think it was in the fall of 1907 or in the spring of 1908.

Q35. And prior to that time you did not have any regular salesman to look after this particular territory? A. No, sir.

2862 Q36. What class of customers do you sell? A. We sell to the contractor, or what is known as the carpenter contractor, and we also sell the mills and the dealers.

Q37. When you mentioned the contractor and the carpenter contractor, did you mean the general contractor and the carpenter contractor? A. The general contractor and the carpenter contractor, or sub-contractor.

Q38. And all this business concerning which you have testified, was in doors? A. 95% of it.

Q39. These figures which you have given for respective dates, are they based on the dates of shipment or the dates of receiving orders? A. They are based on the dates of shipment, year by year.

Q40. Then, taking the business which you have given in the year 1910, does that mean that the orders for that business were all received in 1910? A. No, they could have been received in 1909 and shipped in 1910.

Q41. Do I understand you to testify that substantially all their business in 1910 was secured in or before the first six months of 1910? A. Practically all of it going into closed territory was secured prior to August 1, 1910. 2864

Q42. Did you ever have any conversation with any man who represented himself to come from the Carpenters' Union, concerning the unionization of your mill?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

A. Yes, sir.

Q43. Who was the man? A. Mr. Cook.

Q44. When and where did the conversation take place? A. At our office, in Williamsport. 2865

Q45. Was the meeting of your seeking? A. No, sir.

Q46. What did Mr. Cook say?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection; hearsay; not binding on these defendants.

A. Why, he spent the two hours with me and

talked over the benefits to be derived from unionizing our plant. Told me that if we would unionize our plant, he could give us more work than we could turn out, at very profitable prices. But if we did not unionize it, we would not put a dollar's worth of goods into this market.

Q47. Did he state what he meant by "this market"? A. New York. He did not say "this market"—no, sir.

Q48. Did you state when this conversation took place? A. In the spring of 1910, I think.

2867 Q49. Do you still receive lists to figure on for work in the Island of Manhattan?

Mr. Maloney: Objected to; incompetent, irrelevant and immatedial.

A. Very rarely; we received a list in the last thirty days.

Mr. Maloney: I move to strike out the answer as incompetent, irrelevant and immaterial.

Q50. Did you, prior to 1910, receive such lists?

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Mr. Mayer: Objected to; incompetent, irrelevant and immaterial, in no way binding on any of these defendants; hearsay.

A. We may have received a few. I don't remember of any. We quoted and received an order which was afterwards taken away from us, in 1910.

Mr. Mayer: Move to strike out the answer, incompetent, irrelevant and immaterial.

Mr. Beattie: Same motion.

Q51. But prior to 1910 did you receive such lists?

Mr. Mayer: Same objection.

A. We did, daily.

Mr. Maloney: I move again to strike out all reference to anything happening since the commencement of this action, upon all the grounds hereinbefore stated in previous motions, and upon the further ground, which I wish added to all the preceding motions, that it is not sup- 2870
plemental matter to the cause of action set forth in the complaint, but is designed to create a new cause of action not existing at the time of the commencement of the action, and having no bearing thereon.

Q52. And do I understand that since August, 1910, you received practically no lists except the ones that you have testified about? A. Yes, sir.

Q53. How long before shipment are orders usually placed with you? A. From two weeks to sometimes a year or two years—I would say the average time was possibly sixty days. 2871

Q54. You have done business, have you not, at various times, with H. W. Palen's Sons? A. Yes, sir.

Q55. Do you recall trying to sell merchandise, doors, to this concern in the summer of 1910? A. Yes, sir.

Q56. With whom did you deal? A. I dealt with Mr. Humphrey.

Q57. Did he purchase the doors you tried to sell him? A. He did not.

2872 George W. Crooks for Complainant—Direct.

58. What reasons did he give you for not purchasing?

Mr. Beattie: Objected to; incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

A. Because we were an open shop.

Q59. You have done business, have you not, at various times, with G. W. Smith & Co., of Philadelphia? A. Yes, sir.

Q60. And you sold them doors in the summer of
2873 1910, did you not? A. Yes, sir.

Q61. Did you know where those doors were to be used—of your own knowledge? A. We sold them one contract that was used at the Hotel Rector, New York City, 43rd Street and Broadway.

Q62. Did you attempt to sell further doors to G. W. Smith & Co. in the early part of 1910?

Mr. Mayer: I object; incompetent, irrelevant and immaterial.

A. Yes, sir.

Q63. Did this concern call for certain estimates
2874 from you for doors?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

A. Yes.

Q64. And estimates for doors to be used in what place?

Same objection.

A. Elizabeth, New Jersey.

Q65. Were your estimates accepted? A. Verbally; yes, sir.

Mr. Mayer: I move to strike that answer out, and object to the question; incompetent, irrelevant and immaterial.

Q66. Did you fill the contract?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial; no date fixed.

Mr. Maloney: Same objection.

2876

A. No, sir.

Mr. Maloney: Same motion.

Q67. Did the concern of G. W. Smith & Co. tell you why they were not willing to have you fill the contract? A. Yes, sir.

Q68. What did they tell you as the reason for not permitting you to fill this contract?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial, in no way connected with any of the defendants in this case, not binding on any of them, hearsay.

2877

Mr. Maloney: Same objection.

A. Said it was a New York job and they were afraid they would have trouble with our doors, because they were an open shop.

Q69. Because the doors were made in an open shop? A. Because the doors were made in an open shop.

Q70. I don't understand whether you mean that they said that they, the concern of G. W. Smith & Co., were afraid they would have trouble, or

2878 whether the contractor was afraid he would have trouble? A. They would all have trouble. Smith would have trouble as sub-contractor. The doors would not be used on account of it being a union job, handled by union men out of New York.

Q71. And these were the reasons that they gave you for not giving you the contract? A. Yes, sir.

Q72. Whom did you talk to, who told you this, who gave you these reasons? A. Alfred E. Smith.

Q73. And he is president of G. W. Smith & Co.? A. Yes, sir; president.

2879 Q74. Have you ever attempted yourself to sell any of your doors in New York? A. Yes, sir.

Q75. Did you ever call upon J. W. Dick for this purpose? A. Yes, sir.

Q76. Did he state that he was conducting certain operations and required doors at that time?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

Mr. Maloney: Same motion.

A. He did.

Q77. Did you furnish him estimates? A. I did,

2880 verbal estimates.

Q78. Did he accept them?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

A. He did.

Mr. Maloney: I move to strike it all out as hearsay, incompetent, irrelevant and immaterial.

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Q79. Did you fill the contract?

Mr. Mayer: Objected to; incompetent, irrelevant and immaterial.

A. We did not.

Q80. Did he give you any reasons for refusing to allow you to fill the contract?

Mr. Mayer: Objected to as calling for a conclusion, incompetent, irrelevant and immaterial, hearsay.

Mr. Maloney: Same objection.

2882

A. That he was afraid he would have trouble with the unions.

Q81. That is what he told you? A. Yes, sir.

Cross-examination by Mr. Beattie—

XQ82. Is your business exclusively doors, or is your business simply in New York doors? A. No, I would say our business was 90% doors.

XQ83. All over the country? A. No, our trade is largely in the east. It is largely east of Pittsburg.

XQ84. Well, west of Pittsburg do you deal in other things, too? A. No, we ship very little west of Pittsburg. We occasionally do some work in the west, into Ohio, through the south, Georgia, Florida.

2883

XQ85. Can you give us the exact bounds of this so-called restricted territory, where the doctrine of the open door does not prevail in New York City? A. I can't. I understand that it is south of 177th Street. Now it may be 87th or 97th.

2884

XQ86. And do you know how these bounds were laid and who laid them? A. I do not.

XQ87. Isn't that the territory within which the Master Carpenters' Association do most of their building? A. I don't know, the Master Carpenters' Association build all over the United States. We furnish them in Washington and Pittsburg and Richmond.

XQ88. You know of such an association in this city, the Master Carpenters' Association? A. I have heard of them.

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XQ89. Do you know what builders are in it? A. I do not.

XQ90. Do you know that they have agreed among themselves not to buy non-union products, such as your doors? A. No, I did not know that.

XQ91. I suppose you have been going to these members of the Master Carpenters' Association to sell your goods, not knowing that they had agreed among themselves not to buy them? A. They want to buy our goods, they have told me that they want to buy our goods, but that they could not use our goods in this district.

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XQ92. Who told you this? A. The carpenters; whether they were members of the Master Carpenters' Asociation or not, I am not in a position to tell you.

XQ93. Who told you that? A. Why, Jacob Zimmerman for one. If you could read off the names of your builders there I could spot them very quick. I am not familiar with the names, but I have been told that by a great many builders in New York.

XQ94. Told what? A. That they could not use our goods in this territory, that it was restricted.

XQ95. Did they tell you that Jacob Zimmerman

and these others could not use your goods because they had agreed with one another not to use any non-union goods? A. They told me that the unions would not erect open shop doors.

XQ96. Did they also tell you that they would not buy open shop doors? A. No, sir.

XQ97. That they could not be erected because they could not buy them for one reason, didn't tell you that, nobody? A. No, sir.

XQ98. Well, wouldn't it be a good idea for you to find out about this thing before you go around soliciting any more business? If you found these 2888 gentlemen, these largest builders in Manhattan, had agreed not to buy your goods, it would be an important matter to know it, wouldn't it? A. They have all expressed a desire to buy our goods. They buy our goods when they don't come in under the closed territory.

XQ99. Well, there are 119 members of the Master Carpenters' Association. Have they all told you that? A. Oh, no; I have not called on—I had a limited trade in this market, I never solicited trade of all the carpenters, builders.

XQ100. Well, the largest two builders of the city, two of the largest builders of the city, are 2889 George A. Fuller Co. and Thompson-Starrett Co., are they not? A. Yes, sir.

XQ101. Have you seen them about it? A. No, sir.

XQ102. Why didn't you go around to see them? A. Because they buy their goods through sub-contractors, and we make only the doors, and they place their contracts, so I understand, with concerns that will take all the trim. I make just the doors for those concerns.

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XQ103. Who, outside of Jacob Zimmerman, told you that union carpenters would not erect your doors or any other non-union products? A. The F. T. Nesbitt Co.

XQ104. They run a non-union mill themselves, don't they, down in Pennsylvania? A. No, sir.

XQ105. Well, they run a mill? A. No, sir.

XQ106. You did not know that? A. I know that they don't run a mill.

XQ107. How long is it since they stopped running it? A. Possibly two years.

2891

XQ108. Who runs it now? It is run under a different name, isn't it? A. No, it's a box factory now.

XQ109. They have given it up entirely? A. Yes, sir.

XQ110. Was this conversation with you at the time that they were running this non-union mill? A. No, sir.

XQ111. When was it? A. In the last twelve months.

XQ112. Well, didn't they tell you that they had made an agreement with their fellow builders of this Master Carpenters' Association not to buy

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non-union doors, or other than union trim? A. They told me that they could not use non-union doors, that the carpenters would not erect open shop trim.

XQ113. Who was it told you, Fred Nesbitt? A. I think it was Fred Nesbitt and his partner.

XQ114. Mr. Reid? A. No.

XQ115. Do you know Mr. Reid? A. No, I never met him.

XQ116. Well, who is his partner? A. His name is Johnson, George Johnson, I think.

XQ117. Did he tell you he was a partner? A. I don't know that he told me he was a partner; I got the impression he was a partner. I met them on the train going to Williamsport.

XQ118. You were not looking for business at the time? A. I certainly was; I am always looking for business.

XQ119. Did you meet them by chance? A. I had talked conditions over at their office at different times.

XQ120. But they did not refer to their agreement not to buy non-union stuff at any time, either Johnson or Nesbitt? A. No, sir. 2894

XQ121. Would it be an advantage to you in your business to know that 118 of the large builders of Manhattan had agreed not to buy non-union material? A. Why, I know that anyone of them would buy my goods if they could use them, providing I can sell them doors for less money than my competitors.

XQ122. They do that regardless of whether they have made an agreement among themselves not to buy non-union material, would they? A. Well, I don't know about that. A man will stand by his word, usually, by his agreement. I have been told why they could not use my goods, and I have sold the same people whenever it came outside of the closed territory, and shipped them goods, but anything this side of the dead line, why, I can't serve them. 2895

Mr. Maloney: I object to the repeated use of the words "dead line," "restricted territory," "closed territory," etc.

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XQ123. Do you try to get business within this dead line now? A. Yes, sir.

XQ124. You keep trying to get it? A. Yes, sir.

XQ125. And you get it? A. No, sir.

XQ126. When did you cease to get it? A. In the summer of 1910.

XQ127. Is that the time the territory was shut up? A. I think so.

XQ128. Well, it was made wide open again by this injunction last May. Has that increased your sales very much? A. No, sir.

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XQ129. It has not increased them at all? A. No, sir.

XQ130. And you have tried to get these builders in Manhattan to buy your goods since last May? A. Yes, sir.

XQ131. It made no difference? A. It made no difference.

XQ132. The territory is just as tight shut up now as it was before the injunction was issued last May, or whenever it was issued? A. Practically so; yes, sir.

XQ133. Did you tell these people when you solicited business from them, that you had procured an

2898

injunction? A. Yes, sir.

By Mr. Maloney—

XQ134. Did you threaten to punish them for contempt if they did not give you the business? A. No, sir.

By Mr. Beattie—

XQ135. Well, the East River, the North River, and 177th Street are dead lines, is that it? A. I am not sure.

XQ136. Well, as to the streets—are you sure of the rivers? A. I understand that—I am sure of the rivers—I understand, I have heard this time and again but have forgotten it, and how far north we go, I don't know.

XQ137. Well, Brooklyn, the Bronx, Richmond, Queens and Kings, are all wide open, are they, to non-union material? A. They are wide open, but we don't get the business—about the only section we have is Brooklyn. We put some goods north of the restricted district, but very few.

XQ138. Well, there is no reason why you should 2900
not be able to sell outside of these lines, if you can get people to buy, is there, that you know of? A. I have a customer in that neighborhood and he told me "I can't discriminate, I can't buy doors for this job that is right outside of the restricted district from you and buy them from a union shop that comes inside, because the delegates are continually holding me up, so I buy all my goods from union shops."

Mr. Mayer: I move to strike the answer out, hearsay, not responsive, incompetent, irrele- 2901
vant and immaterial.

XQ139. Do you try to do any business in Brooklyn? A. Yes, sir.

XQ140. And can't do it? A. Oh, yes; yes, sir.

XQ141. You do do it? A. Yes, sir.

XQ142. No decrease of your business in Brooklyn? A. No, our business has been increasing.

XQ143. How about Queens, or Staten Island? A. Staten Island our business has increased.

XQ144. You have never heard from any cus-

tomers of unions interferring around those sections? A. No, sir.

XQ145. Haven't heard of any union carpenters down there, have you, Brooklyn or Staten Island? A. Yes.

XQ146. You think there are some? A. Yes, there are union carpenters there.

XQ147. But they are in a negative state, as far as your goods are concerned? A. Yes, sir.

XQ148. Are your doors marked with your name when they come from your factory? A. No, sir.

2903 XQ149. There is no way for a carpenter to identify them when he is put to work on them? A. Except from the natural earmarks that are familiar to any craftsman handling different lines of goods.

XQ150. What kind of earmarks have you got that are different from Morgan? A. A difference in construction; our core is framed different from Morgan, or McMillen, or Paine.

XQ151. Well, an ordinary carpenter that was not handling a great many doors would not know anything about that? A. I would say not, although our construction—the carpenter has been educated to our construction, I have been told.

2904 XQ152. You mean carpenters in Manhattan who do not handle your doors, have been educated? A. Yes, sir.

XQ153. Where did they get that education? A. I don't know. Our construction has been blueprinted, so that the carpenter can detect almost immediately where the doors were made, whether it was Crooks construction or Morgan construction.

XQ154. Well, there are about a thousand mills making doors in the United States, aren't there? A. I don't know.

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XQ155. There are fully a thousand, aren't there? A. There are a lot of mills, I don't know how many.

XQ156. Can't you approximate it? Well, several hundred, anyway? A. I would imagine, but they don't put their goods into this market.

XQ157. You don't know what they put in, do you? You don't keep track of them all? A. I don't keep track of any of them. Naturally, going around among the trade, I know who my competition is.

XQ158. Is the Iroquois Door Co. a competitor of yours? A. Yes, sir.

2906

XQ159. You mean that all of these door manufacturers have a different way of making doors, so that a carpenter handling them can tell what mill it comes from? A. No, there are some similar, but there are certain characteristics about the door that a man could tell if he was educated along those lines. I don't mean to say a carpenter can tell, but I can pick out any manufacturer's door.

XQ160. You don't have any difficulty about selling your products because of any union interference in any other part of the country, except Manhattan, as I take it? A. We have been threatened and had trouble; yes sir. We have lost some contracts outside of Manhattan.

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XQ161. Where was that? A. In Denver, Colorado.

XQ162. Well, when you speak of trouble, you refer to strikes or lockouts, don't you? There is no other kind of trouble arises? A. We did not reach that point. We had a contract signed up and were threatened by a union delegate, Mr. Cook; we had some contracts in the west that would cause us trouble, and we refused to furnish this contract in

2908 George W. Crooks for Complainant—Cross.

Denver, which was quite a large one, unless the goods were accepted at Williamsport.

Mr. Maloney: I move to strike out the word "threatened" as in no way reciting the facts, so that we can say whether it was threatened or not.

XQ163. Wouldn't they take the goods at Williamsport? A. No, sir.

XQ164. Did you find that there has been a decrease in building operations around New York
2909 lately? A. I have not had an opportunity to figure on the business, so I would say that there has been nothing done in New York as far as I am concerned—in Manhattan.

XQ165. That might be due to a lessening of building operations in Manhattan, might it not? A. No, my old customers are doing some business.

XQ167. You don't think that would affect it? A. It would to a certain extent, but I would get some business here.

XQ168. Well, your business has kept booming in Brooklyn, and you assume that building operations are going on briskly over there? A. No, sir.

2910 XQ169. Is there a depression over there? A. Materially; yes.

XQ170. But your business has kept increasing over there? A. Yes, sir.

XQ171. Well, I take it from that that the business that you or anyone else does is largely dependent on your personal efforts to get business and the character of your goods, isn't it, in each case? A. Yes, sir.

XQ172. And also on the price, the discount, which you allow? A. Yes, sir.

 2911

XQ173. Are you a member of the Veneered Door Association? A. Yes, sir.

XQ174. And do you follow their price list right along?

Mr. Merritt: I object; incompetent, irrelevant, immaterial, and not cross-examination, and I reserve the right to cross-examine the witness on any matters of this kind, and further reserve the right to rebuttal on any matters of this kind if the testimony on this point is taken now.

2912

A. No, sir.

XQ175. They send you a price list right along, don't they? A. They don't send a price list, they recommend a certain discount.

XQ176. But that association has a printed price list which you get regularly as it is issued, don't you? A. Yes.

XQ177. That is what I asked you about. How often do they send you this price list? A. Well, we have had two in the last six or eight years.

XQ178. And the last one issued when? A. Why, in January, I think, 1911, or last fall, I am not sure which.

2913

XQ179. Well, it was modified by circulars issued in January and February of this year, wasn't it? A. Modified?

XQ180. Yes, changed? A. What do you——

XQ181. The modifications of the price lists. You have not get any of those? A. I have what is known as a discount sheet.

XQ182. That is it. There are modifications of the discounts sent out by circulars from this price list by this association to the members from time to

time, isn't there? A. I don't understand the word "modification."

XQ183. Well, change it to figures? A. Yes, there has been no changes that I know of in the last—there were discounts recommended for the new price list which was issued in January of this year.

XQ184. They were recommended by circulars sent out since January 1 of this year, these changes in figures? A. Yes, they were sent out. There were no changes, but of figures.

XQ185. Of discounts? A. Of discounts, since the
2915 price list was issued.

XQ186. The price list was issued on January 1 of this year? A. Maybe February or March, I am not sure which.

XQ187. Haven't you got any of the circulars from the association referring to the price list or discounts since that time? A. I have not, no.

XQ188. Are you a member of the American Anti-Boycott Association?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial, and not cross-examination.

2916

A. Our firm is.

XQ189. Your firm is? A. Yes.

XQ190. A corporation? A. Yes, a corporation.

XQ191. Are you paying the expenses of this suit?

Mr. Merritt: Same objection.

Is you corporation paying the expenses of this suit? A. No, sir.

XQ192. You are sharing the expenses of the suit? A. No, sir.

XQ193. Do you know how it is being conducted?

Mr. Merritt: Same objection.

A. I do not. I don't know who is paying the expenses. I know that we pay something, but not —we may pay $50.

XQ194. Is that all you pay? A. I don't know what we pay.

Mr. Merritt: I don't want to renew my objection to each question along this line, but I want it deemed to be taken to each question and answer along this line of examination. 2918

XQ195. You say it won't exceed $50. a year? A. Yes, that is what I would say.

XQ196. Well, who is that paid to? A. The American Anti-Boycott Association, I think.

XQ197. And have you paid them any money since September 1st of this year?

Mr. Merritt: Same objection and on the further ground that this can have no possible bearing on any of the issues in this action.

2919

A. September 1st? I don't know.

XQ198. Don't you know when the last payment was made to them? A. No, sir.

XQ199. Have you been advised that it is a violation of Section 280 of the Penal Law of this State, with a penalty of misdemeanor attached, for the American Anti-Boycott Association and its members, of which your company is one, to furnish lawyers, contribute thereto, or practice law in this State?

Mr. Merritt: Same objection.

2920

A. To furnish lawyers—that is the only point of this I don't understand.

XQ200. Well, your association is furnishing lawyers, as I understand it, in this and other cases? A. Why, we are not furnishing.

XQ201. Well, if you are a member of the American Anti-Boycott Association—you know that it is furnishing them, don't you?

Same objection.

A. No, sir.

2921

XQ202. The American Anti-Boycott Association is not furnishing attorneys for you and others in this and other cases? A. The question as I understand it was, whether I was aware, whether anybody had ever told me, and I say, no.

XQ203. They have not? A. No.

By Mr. Maloney—

XQ204. You know that the American Anti-Boycott Association is furnishing the attorney in this case for your corporation? A. I imagine they are.

XQ205. But nobody has ever advised you that it

2922

was a violation of any law in this State?

Same objection.

A. No, sir.

By Mr. Beattie—

XQ206. For you to contribute or pay a member of this association while it is engaged in these practices? You have not been so advised?

Same objection.

A. We went into this association, I should say eighteen months ago, before this suit was ever thought of. We did not go into this association to bring this suit. I might say, give you a little history of that, if you wish.

Mr. Maloney—

XQ207. Yes, go ahead? A. We had quite some heavy contracts here in New York and we were advised that our goods would not be admitted, and they were in the course of construction and absolutely worthless unless they could be used in their respective buildings, and it meant a dead loss to us, we could not stop and use the material for anything else, and we started to look for some redress, and found that the American Anti-Boycott Associatoin was recommended to us— I can't say by whom—— 2924

XQ208. By Paine, wasn't it? A. No.

XQ209. Didn't Paine send you a letter to that effect? A. No, sir. He sent us a letter later on when this suit was talked about, and asked us to join with him, but when we went into it, we of course expected to derive some benefit from it, and we were looking for trouble ahead; we were under contract to furnish, and when we got them out, we did not know whether the goods would be accepted, and we expected, when we went into this, that we might get some redress. But I took it up, and was not promised anything when I went in. 2925

XQ210. You did not know that since you went in, the penal law of this State was amended by Section 280, on September 1, of this year?

Mr. Merritt: Same objection.

2926 George W. Crooks for Complainant—Cross.

A. I did not; no, sir.

XQ211. And you don't know whether that section of the penal law forbids you to continue to be a member or to furnish money to it while it is engaged in its present business?

Mr. Merritt: Same objection.

A. No, sir.

By Mr. Maloney—

2927 XQ212. Where did you have the meetings to agree upon this suit? A. We never hold any meetings.

XQ213. Did you meet the other parties who were complainants in this suit? A. No, sir.

XQ214. Was it done by correspondence? A. Yes, sir. The correspondence—I received a letter from the Paine Lumber Company, and when it was closed up here, I took it up with Mr. Merritt——

XQ215. When the correspondence was closed up? A. No, when we were closed out of this market. Then I took it up with Mr. Merrittt. Mr. Merritt advised me later that they were going to bring a
2928 suit and wanted to know whether we would join them.

XQ216. And you joined in the suit, but you were not to contribute anything toward the expense of it except your dues as members of that association? A. Yes, sir.

XQ217. That is, I have stated it correctly? When you say yes, sir; I have stated your position in that respect correctly? And you joined in the suit, but you were not to contribute anything toward the expense of it except your dues as mem-

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bers of that association—is that correct? A. Yes, sir.

XQ218. And you don't know how much you have contributed since the suit started, toward your dues of this association? A. No, sir.

XQ219. You don't attend the meetings of the American Anti-Boycott Association? A. No, sir.

XQ220. Did you go to their office at the time you signed the bill of complaint in this case? A. Yes, sir.

XQ221. You belong to the Eastern Door Association, too? A. Yes, sir; Door Sash & Blind Association.

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XQ222. And they have a price list also, do they, copies of which are sent to the members? A. Yes, sir.

XQ223. And do you also have from them these discount lists? A. Yes, sir.

XQ224. Do these associations make agreements that they will not sell to the consumers, but only to the retailers? A. No, sir.

XQ225. Well, what is the agreement with respect to sales of products within certain territories in these associations? A. I never heard of any agreements.

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XQ226. Don't they have some purpose of not selling where they have what they call retail customers, not selling to the consumer or to the builder direct? A. I have never heard of it. It has been talked over, every manufacturer has his own method of conducting his business. Members of our association confine themselves strictly to the retail trade. Other members of the association sell both the retail trade and the consumer, the builder.

2932 George W. Crooks for Complainant—Cross.

XQ227. Other members of the same association? A. Other members of the same association.

XQ228. And which one is that—the Eastern Door or the Veneered? A. Both associations.

XQ229. Well, isn't there some agreement or understanding between the consumers and the retailers and those members of your association who adopt the practices that you do, that the sales will be confined to the retailers and none made directly to the consumers? A. No, sir.

XQ230. I understood that that was a practice
2933 that you and others of the association followed, but that it was not the universal practice amongst all the members of the association? A. We sell our goods in certain territories to whoever will buy them. If we are selling you, you are a dealer and this gentleman is a builder in the same town, we do not consider it would be fair to come and load you up with goods and then go and sell your customer direct.

XQ231. So that wherever there are dealers, they don't sell to the customer, but to the dealer? A. Not always; they sell to both; some members are not as fair as they might be, and they sell both.

2934 XQ232. It is considered unfair to sell to a dealer and at the same time sell to his customer? A. I would so consider it.

XQ233. And is that universally so considered by the members of the association, except those who quietly do it the other way? A. I can't speak for the other members of the association.

XQ234. What is the general understanding amongst the merchants in your line? Isn't that considered unfair, to do that? A. I believe that the

retailer—I am satisfied without talking it over with the retailer, that he considers it very unfair.

XQ235. And a number of the merchants in this association respect that opinion of the dealer, do they not? A. You mean the manufacturer?

XQ236. Yes. And therefore confine themselves to sales to him so as not to interfere with his business, with his customers? A. We did not.

XQ237. Can you speak for anybody else? A. No, sir.

XQ238. Have you ever heard it discussed among the members? A. I don't know as I have, at any length. I heard a discussion several years ago in reference to the glass manufacturers, but I know that the mill work manufacturers, that members of this association and members of this suit, who are bringing this suit, sell their goods wherever they can.

XQ239. I am speaking only of the members of these two associations which I have referred to, the Veneered and the Eastern? A. They sell their goods wherever they can sell them.

XQ240. Are you a member of any other association of that kind? A. No, sir.

XQ241. You don't deal in lumber? A. No, sir; only to buy it for our products.

XQ242. You are always looking around for business, of course? A. Yes, sir.

XQ243. And you are glad to do business wherever you can get the greatest profit? A. Yes, sir

XQ244. And if you saw an opportunity to do a profitable business and it was not unlawful to do it, you would do it, wouldn't you? A. Yes, sir.

XQ245. Now when Cook came to you and said that if you would employ union men, unionize your

shop, and said that he would increase your business largely, and there would be large profits, I understood you to testify, increased profits, why didn't you do that? A. Because it had been the experience of other manufacturers that had unionized his plant, that he had lost money and been forced out of business in a great many cases.

XQ246. And you did not believe what Cook said, that it would be profitable business? A. No, sir.

XQ247. And you thought that if you kept your
2939 non-union men in your shop, that you could still do business in Manhattan at a greater profit than if you dealt through Cook with the unions? A. No, sir. Just a word there: 85% of our business is done outside of New York City, at times, and we compete with mills that are paying a lower rate of wages than we are, all the country trade; we have to go in competition with those people; if we unionized our plant and paid the scale of wages that we would have to pay, and the hours we would have to work, the short hours, we would have to charge a whole lot more for our goods and lose the trade we have been 25 years building up—15% of
2940 the business we get out of New York.

XQ248. Does that 15% mean for the entire city, or is it limited to the Island of Manhattan? A. We cannot tell how much we are going to put into a certain district, in a certain territory.

XQ249. In general terms, when you say 15% of your business only is done in the City of New York, is that in the entire city, or in this so-called restricted district? A. I will answer that: We never solicited business in this market prior to 1908, and our business in 1908 was $10,000, while in 1910 it

was $25,000. It was increasing all the time, don't you see?

XQ250. Was it increasing out of proportion by per centages with the operations of your business in other outlying districts or in different states? A. No, it was due to personal endeavor in this market.

XQ251. It was in about the same proportion, about 15% of the total business, wasn't it? A. In 1907 our sales here were not 1%.

XQ252. I mean after you began to do business in this territory, did that 15% hold good right 2942
along with respect to the total business you did? A. I said from 10% to 20%.

XQ253. I am not holding you down to any particular percentage. I mean, this percentage, that you are referring to, whatever it was, 10%, 5% or 15%, or any business done in the City of New York, do you refer to the business done on the Island of Manhattan or in the whole city? A. The whole city.

XQ254. Could you give any approximate estimate of what proportion of the business was done in this so-called restricted territory? A. I think 2943
about 60% or 70%.

XQ255. Of the 10% or 15%? A. Yes, sir.

XQ256. Now, when Cook made these propositions to you,—it was just a practical business matter with, that you would not unionize your shop, for the reason that you would be compelled to pay higher wages and have the men work less hours, and in that way you would not be able to compete so well with other mill men who sold into this territory, or into your territory generally—is that correct? A. Into my country territory?

XQ257. Either one or the other. A. I told Mr. Cook that if he could unionize the other mills that were competing with me, we would gladly unionize our plant.

XQ258. Do you know what plants were competing with you at that time that you had in mind that paid lower rates of wages than you and worked perhaps longer hours? A. I referred him to plants in our own state, within fifty miles of us, and in our own city, and also plants in Ohio and Minnesota and in the west, Oshkosh, Indiana and Wis-
2945 consin. I wanted to be on an equal basis. I was not averse to unionizing our plant, providing Mr. Cook could keep his end of the agreement.

XQ259. Well, if you were at liberty to sell to other people outside of the City of New York, where this agreement was proposed, and do your business here on a union basis, and in your own shop, provided Mr. Cook was able to see that you got business in New York, it would be a profitable arrangement, wouldn't it? A. If he could deliver the goods. If he could keep his end of the contract.

XQ260. Then, in a sense, there was a discrimination on your part between union and non-union
2946 men. That discrimination, however, being purely a practical business matter, is that right? A. No, I don't so understand.

XQ261. Well, you preferred, did you not, to continue your shop as not a union shop, for the practical business reasons which you have just stated? A. Yes, we wanted to run our shop as an open shop, union or non-union. We never discriminated against——

XQ262. I understand that. But in a sense you were, were you not, discriminating, though, be-

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tween a union shop and one which was not a union shop? A. We were discriminating between a union shop and what we term an open shop.

XQ263. Call it what you like. It was not what they call a union shop? A. A closed shop; No, sir.

XQ264. Then you were discriminating, but you had no malice, it was purely business reasons? A. Yes, sir.

By Mr. Mayer—

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XQ265. Mr. Crooks, do I understand, then, do I put it rightly, that when Cook called on you and gave you these arguments with respect to the benefit to your business that would ensue upon your unionizing your shop, that your objection was, that by unionizing your shop, you could not meet in competition the people that you were then competing with, is that so? A. Yes, sir.

XQ266. So that in refusing to accede to the correctness of Cook's arguments with respect to the benefits that would accrue to you by unionizing, you were attending strictly to your own business? That is true, isn't it? A. Yes, sir.

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XQ267. And you had strictly your own business in view? A. Yes, sir.

XQ268. Now, in this talk of two hours with Cook, this conversation, didn't you receive the impression that Cook was attending strictly to the business of the unions in trying to obtain as much work as the unions could for their members?

Mr. Meritt: Objected to; improper in form, calling for an impression.

A. Yes, sir.

2950 XQ269. So that, on the one hand, you were trying to show Cook that by unionization of your shops, by making your shop a union shop, you could not compete with the competitors under conditions which they were working under; he, on the other hand, was trying to convince you that by unionizing your shop and giving the work to the members of the Carpenters' union that he represented, you would benefit? It simmered down to that? A. I would not say yes or no to that question. I knew from experience, from mills that had been forced
2951 out of business under union conditions, that Mr. Cook could not deliver the goods. Mr. Cook did not agree to turn over any business to me. He was not soliciting business for me.

XQ270. I don't want to misinterpret what you said; I have been listening rather intently to the testimony. As I understand it, Cook told you that if you would unionize your shop by such methods of unionization you would profit, that is to say, your business would prosper over what it had been doing in the past? A. That is what he said.

XQ271. And you, on the other hand, said to
2952 Cook, "I don't believe it will. If you cannot unionize all my competitors, I am going to suffer by unionizing my shop." Isn't that practically the situation as it was? A. Yes.

XQ272. Cook tried to convince you that you were wrong—in an argumentative way? A. Yes.

XQ273. And you, on the other hand, were trying to show the correctness of your view? A. Yes.

XQ274. During this two-hour talk? A. Yes.

XQ275. It was perfectly friendly? A. Yes. He

was instructed to come there by Mr. Humphreys, to see me about it.

XQ276. He said, didn't he, during the course of that conversation, that the members of the union wanted to work on material which was made by their brother members, didn't he? In the course of that talk he mentioned that, didn't he? A. Along those lines, I imagine, I don't know whether he used those words.

XQ277. I don't put it unfairly when I put it that way, do I? A. I understand.

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XQ278. In substance he said that? He said, didn't he, during the course of that conversation, that the members of the union wanted to work on material which was made by their brother members, didn't he? In the course of that talk he mentioned that, didn't he? That is the substance of it? A. He told me that they would not erect my work unless I unionized my plant. He said "You unionize, or stay out of New York." He said nothing about the members.

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XQ279. You did not get the impression that members of other unions were going to unionize your shop, that were antagonistic to Cook's union, did you? A. I don't know of any other union. I don't know what you are driving at.

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XQ280. You understand perfectly that the men he wanted you to employ would be members of the Carpenters' Union which he represented? A. He wanted to go into my shop. He came there for the purpose of going into my shop and forming a local union in Williamsport, unionizing my men.

XQ281. Unionizing your men in respect to his union? A. Every man had to join. Some of my men were averse to joining the union. They had

had trouble in the Nesbitt shop, at Lewisburg, a union shop, and would not join a union, had told me that they would never join a union again.

XQ282. You don't mean to convey the impression that you had any understanding from what Cook told you, that he had anything in mind but having his men work in your shop if it was unionized? A. Every man that worked in my shop had to have a union card.

XQ283. Yes, and they would be members of the same union which was erecting the material in
2957 New York, the same international union? A. I would imagine that that body would be a member of the Woodworkers' Union, not the Carpenters' Union.

XQ284. Don't you know that they are all one now? A. I did not know it, no.

XQ285. They are all one. You don't deny that they are all one? You don't say that they are not? A. I don't know. I thought that there was a Woodworkers' Union as well as the Carpenters.

XQ286. You did not think he was out there doing any philanthropic work for anybody not a member of his union? A. I did not know but what
2958 he was representing both unions.

XQ287. At any rate, you knew that the men he was representing were the men he wanted employed in your shop exclusively? A. He came there to unionize our plant, which was largely non-union or all non-union, as far I know, open shop, and he came there to unionize, to hold a meeting there that night and take our men into the union.

XQ288. And he told you that night, as you have stated, that the members of the Carpenters' Union

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in New York would not install material which was not made by union labor? A. That's it; yes.

By Mr. Beattie—

XQ289. Did he tell you that the builders, or a large part of the builders of this city, would not buy your material as long as it was non-union? A. For the reason that the carpenters would not erect it.

XQ290. Did he tell you that they had made an agreement among themselves, regardless of the carpenters, that they would not buy it? A. I don't know that he did. He may have told me that. I suppose he did; if he knew that, he would certainly tell me that. I don't remember that.

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XQ291. You have not read that agreement, which is Exhibit 2 of your complaint? Have you? Did you swear to your complaint in this action? A. Yes, sir.

XQ292. Did you know that Exhibit 2 of that complaint is such an agreement, among the master carpenters? A. Yes, sir.

XQ293. That they would not buy non-union material? A. Yes, sir.

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XQ294. How long did you say you had been a member of the Anti-Boycott Association?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial; not cross-examination.

A. I think about two years.

XQ295. Have you ever got a notice of a meeting? A. No, sir.

XQ296. The association has never held a meeting that you know of?

2962 George W. Crooks for Complainant—Cross.

Mr. Merritt: Same objection.

A. I don't remember it; I say, no, sir; I don't remember of ever having a notice of a meeting.

XQ297. Have you ever had any statement of the moneys that they have taken in?

Mr. Merritt: Same objection.

A. No.

XQ298. Have you ever authorized by vote, or by mail, or otherwise, the expenditures of any of the
2963 other moneys of the American Anti-Boycott Association?

Mr. Merritt: Same objection.

A. No, sir.

XQ299. You have nothing to say about the expenditure of moneys of that association?

Mr. Merritt: Same objection.

A. I am away a great deal of the time, and I don't see all the correspondence that comes into
2964 the office. Half of my time is on the road.

XQ300. If you had been asked to pass upon any of the expenditures of the American Anti-Boycott Association, you would have known about it?

Mr. Merritt: Same objection.

A. Yes, I would have known about it.

XQ301. Do you know how much you and your fellow members of the American Anti-Boycott Association are paying its different officers?

Mr. Merritt: Same objection.

2965

A. No.

XQ302. Have you ever voted to elect any of its officers—of the American Anti-Boycott Association?

Mr. Merritt: Same objection.

A. I don't know that I have voted to elect any of its officers—I have, yes. I believe there are several officers; I don't know. I have all this data at home and I have read it and forgotten about it. I don't know anything about it.

XQ303. You have not any ballot that you voted to elect any of the officers of the association?

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Mr. Merritt: Same objection.

A. I think we have, yes.

XQ304. How did you vote? At what meetings?

Mr. Merritt: Same objection.

A. No, we voted by mail.

XQ305. Once, or more than once, during the two years?

Mr. Merritt: Same objection.

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A. We have voted more than once; twice, I guess.

XQ306. Well, were the officers that you voted for the ones that were elected?

Mr. Merritt: Same objection.

A. I don't know.

XQ307. Was there much of a contest among the members?

Mr. Merritt: Same objection.

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A. I really don't know anything about it.

XQ308. Who was it requested you to vote?

Mr. Merritt: Same objection.

A. The names of the candidates and the names of the members of the association were forwarded to me, with the request to vote for three members.

XQ309. Three members of the association?

Mr. Merritt: Same objection.

2969

A. Yes, sir.

XQ310. Well, for any office, were they?

Mr. Merritt: Same objection.

A. Yes.

XQ311. Standing for some office?

Mr. Merritt: Same objection.

A. Yes.

XQ312. What were the three offices that they were standing for?

Mr. Merritt: Same objection.

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A. I really don't know, except that there was a vice-president; he is the only one; I suppose there was president and vice-president; I don't know. I think now it was a committee, as I remember it; it was a committee to confer with the executive committee. I don't know anything about that.

XQ313. Are you interested as a member to know how your moneys are disposed of in that association?

Mr. Merritt: Same objection.

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XQ314. But the aggregate amount is very large?

A. It is so little that it comes up like the annual donation to the Home of the Friendless, and the hospital, and one thing and another. It doesn't amount to anything.

Mr. Merritt: Same objection.

A. Not to our firm; no.

XQ315. I mean, the aggregate of all the firms?

Mr. Merritt: Same objection.

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A. I don't know anything about it.

XQ316. They have never informed you of anything of about how much they have taken in in these two years?

Mr. Merritt: Same objection.

A. Possibly they have.

XQ317. Have you any recollection as to whether it is large or small?

Mr. Merritt: Same objection.

A. I have not.

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XQ318. Do you know whether it is a million dollars?

Mr. Merritt: Same objection.

A. I don't know.

XQ319. Is there any list of the members published, that you know of?

Mr. Merritt: Same objection.

A. I don't know.

2974 George W. Crooks for Complainant—Cross.

XQ320. Did you ever see a list of members?

Mr. Merritt: Same objection.

A. I saw a partial list.

XQ321. How many were on that?

Mr. Merritt: Same objection.

A. I don't know.

XQ322. Was it a printed list?

Mr. Merritt: Same objection.

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A. Why, it was a typewritten list, the list that I saw. I don't believe it contained over fifty names.

XQ323. Did it purport to be all the members?

Mr. Merritt: Same objection.

A. I could not say.

XQ324. Have you got that with you?

Mr. Merritt: Same objection.

A. No.

2976 *By Mr. Maloney—*

XQ325. It was a selected list to show you the people who belonged to it?

Mr. Merritt: Same objection.

By Mr. Beattie—

To induce you to belong to it?

Mr. Merritt: Same objection.

A. No.

2977

By Mr. Maloney—

XQ326. Suggesting other people who belonged, to show it was a good thing to belong to?

Mr. Merritt: Same objection.

A. It was a list that I voted for those officers I have spoken of, I don't know how many.

By Mr. Beattie—

XQ327. I thought you said there were only three on that list?

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Mr. Merritt: Same objection.

A. No, we were asked to vote for three members.

By Mr. Maloney—

XQ328. Out of this list of fifty or so?

Mr. Merritt: Same objection.

A. It might have been a hundred.

XQ329. I mean, out of this special list you saw?

Mr. Merritt: Same objection.

2979

A. Yes.

XQ330. I understand from your affidavit attached to this bill of complaint, that Cook told you, if you would unionize, you would have an increased business, greater than you would be able to take care of? That is in substance what he said? A. Yes, sir.

XQ331. And I also understood you to say it would bring an increased profit to your business? A. Yes.

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XQ332. Now, when Cook came, did he come in and show his card as a member of the union, or was he introduced to you properly? A. I think he handed his card.

XQ333. There was nothing secret about it? It was open and all that sort of thing, wasn't it? A. Oh, yes.

XQ334. Was there anyone else present besides yourself in the talk with Cook—any other officers? A. None of the officers of our corporation; there were no officers of our corporation.

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XQ335. But there were other managers or bookkeepers or employees of some sort around? A. They were in adjoining rooms. He came into the office.

XQ336. Did he, in substance, say to you that the carpenters would not work upon material not made by the union? A. Yes, sir.

XQ337. And that that was so in the Island of Manhattan and elsewhere wherever the union was organized, the one he was representing? A. Yes; he told me that it was so in this closed district.

XQ338. The City of New York? A. And it would be so all over the east.

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XQ339. In time? A. Inside of six months.

XQ340. That they were endeavoring to unionize a number of mills? That they were endeavoring to unionize the territory between New York and Philadelphia, between New York and Washington.

XQ341. The eastern territory? A. The eastern territory.

XQ342. Now, did he say that the territory was unionized out at Denver, where you were about to make this other contract? A. No, sir.

XQ343. I understood you to refer in your di-

rect examination to some contract out at Denver. Was I mistaken about that? A. I spoke about that. He referred to that in this way, when he left——

XQ344. You were about to take some contract for some man at Denver? A. We had a contract in Denver at the time, or was negotiating for a contract; we had it at the time I saw him.

XQ345. And you brought up that subject with him? A. No, sir.

XQ346. Did he bring up the subject? A. In this way: He said "You have business in the west that you will have trouble with." 2984

XQ347. What business in the west did you have? A. I had this Denver contract.

XQ348. Did you have other business in the west at any time? A. Not at that time.

XQ349. But you did business in the west to some extent, generally? A. Pittsburg was about our limit.

XQ350. Then, when he said you might have trouble with the man in the west, did you say anything to him about the Denver contract? A. No, sir.

XQ351. So he knew nothing about that? A. No, sir; not from me. 2985

XQ352. Not from you? A. No, sir.

XQ353. Then you afterwards made your arrangements with the people in Denver that the delivery of your material under the proposed contract must be conditional upon its acceptance by them at Williamsport? A. Yes, sir.

XQ354. So that, if there were to be any labor troubles in Denver, you would have nothing whatever to do with it? A. Yes.

XQ355. That was a matter that you did out of

abundant caution, wasn't it, and prudence, so as to have no trouble at all with the contract in Denver? A. I would say, the freight on my goods is so heavy to Denver, and they would be absolutely worthless unless they were used in that particular contract, that I was overly cautious.

XQ356. You don't charge anything of that sort against Cook? He did not say "You have got a contract in Denver and we are going to make you unionize or you don't fill that contract?" A. No, sir.

2987 XQ357. Now, when you use language such as "threatened," you don't mean that Cook physically threatened you? A. Oh, no.

XQ358. What you mean is, that he said the union men would not work upon the material not made by their union men? A. It would not be used, union men would not work on it, and naturally, it would not be used, it would be refused.

XQ359. That is, they would not put it up at all? A. That is it.

XQ360. And you had the practical understanding of what that meant? A. Yes, sir.

XQ361. But outside of that, Cook did not come
2988 there with any mask on his face, or did not close the doors, or do anything in any secret way, or indicate that he was committing a crime, did he? A. No, sir.

XQ362. You did not think that Cook was a conspirator under any law when he came in to see you about this matter, did you? A. No, sir.

XQ363. Did you know that it is charged generally in this bill of complaint verified by you that Cook and these other people were conspirators and united together a great band of conspirators? Did

you trust to the lawyer to use such terms as he thought was proper? A. It developed into a conspiracy, I imagine, after Cook saw us.

XQ364. Did you have any idea that Cook and the other fellows mentioned here in the complaint were a band of conspirators, and then did you not hotfoot it down to New York to have some person proceed against them as conspirators committing a crime? Or did you trust to your lawyer to formulate this bill of complaint in language which the lawyer advised you was appropriate? A. When I found out what methods they had taken to force 2990
us out of this market, I was not worried so much, I was worried about future business, but my volume of business on hand, which was in different stages of construction, was very heavy, and to have that thrown back on my hands worried me considerably.

XQ365. You lose a lot of effort talking about forcing you out of the market, etc., and you don't answer my questions? A. I do answer your question, yes and no; the forepart of it yes.

XQ366. You thought they were a band of conspirators, committing a crime? A. After—— 2991

XQ367. I am talking about the time—— A. You have got it in a shape I can't answer it. It should be two questions, I think.

XQ368. When Cook talked with you, did you then form the opinion that Cook and the other people to whom he was referring as members of the union were a band of conspirators committing a crime? A. My answer to that would be no, because——

XQ369. Never mind the reasons. Did you later form that opinion, and if so, was it upon informa-

tion which was supplied to you as to what these men did? A. Yes, sir.

XQ370. Did you obtain that information from the American Anti-Boycott Association, and from some of these other co-complainants, Paine, Morgan, and others, and by correspondence? A. No, sir. I will modify that by saying that I obtained most of that information from my customers.

XQ371. That is to say, the customers have refused to purchase your material, giving as reasons that they could not get the union men to put them
2993 up. You then drew the inference that these men were conspirators committing a crime, is that it? A. Yes, sir.

XQ372. Did you know at that time of any law, any statute law, or any other law, which made it a crime for these men to refuse to work upon any material, union or non-union made?

Mr. Merritt: Objected to; incompetent, irrelevant and immaterial, and also calling upon this witness concerning questions of law, when the witness is only here properly to testify concerning questions of fact.

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A. I am a citizen of Pennsylvania, I am not familiar with the laws of New York.

XQ373. You are presumed to know the laws of Pennsylvania. Tell me, if you know of any law in Pennsylvania, either statute law or any other law that you know of, that makes it a crime for any man or any number of men to refuse to work upon any material, whether union made or non-union made?

Mr. Merritt: Same objection.

Do you know of any such law, of your own knowledge? A. I am not competent to answer that question.

XQ374. But you are. You can answer whether you know of any such law?

Mr. Merritt: Same objection.

A. There have been injunctions.

XQ375. I am not talking about injunctions. Do you know any law——

Mr. Merritt: That is a very proper answer.

XQ476. Do you know of any law in Pennsylvania which makes it a crime for any man or any number of men to refuse to work upon any product? A. I don't know, I am not an attorney. I would say that if the courts restrain——

XQ477. You need not argue with me. Do you know of any such law—yes or no? A. I don't know of any such law.

XQ478. Then when you came down here, somebody advised you before you came, or after you got here, that it was a criminal conspiracy, did they? A. No.

XQ479. Where did you get the idea it was a criminal conspiracy? A. On different decisions rendered right here in New York.

XQ480. Who told you about those? A. I read them in your daily papers.

XQ481. And did you keep a note of those decisions? A. Mental note only.

XQ482. And you read somewhere in the New York papers that the law of New York was, that

2998 it was a crime for a man or any number of men to refuse to work upon any product? A. No. If you put that different——

XQ483. I don't want to put it differently. I am putting it that way.

Mr. Merritt: I object to this entire line of testimony as improper, seeking to examine this witness concerning questions of law as to what he knows about certain acts being criminal or not.

2999 XQ484. Did you read such a statement as that in any newspaper? A. That is, that that was the State law?

XQ485. That it was a crime? A. I have read that——

XQ486. That injunctions were issued in cases involving labor disputes? A. Where men had banded together not to erect trim or make shoes, or ane thing and another.

XQ487. And you read that there was a law in this State—— A. Naturally supposed that there was a law covering that point, or the injunctions would not be granted.

3000 XQ488. You understand that there is a difference between an injunction and a criminal law, don't you, a thing that is wrongfully criminal? A. I imagine that it would be based on the law, that these injunctions are based on the law.

XQ489. But you know, as a business man, that the committing of a crime is one thing, and to commit some act which may be enjonied is another? A. Yes.

XQ490. You had read somewhere that injunctions had issued in labor disputes which were

 3001

similar to this labor dispute which you were about to have? Is that right?

Mr. Merritt: Same objection.

A. I expected redress. I did not see how——

XQ491. But you are arguing with me now? A. I am not arguing. I am trying to answer your questions.

XQ492. Did you see such statements as that, I mean? Did you see in the newspapers, statements that injunctions issued in cases which you thought were similar to the case which you had in mind, 3002
your own case; that was the point, wasn't it? A. Yes, sir.

XQ493. Did you have circulars sent to you by the American Anti-Boycott Association about litigation of that character?

Mr. Merritt: I object; incompetent, irrelevant and immaterial, and also on the further ground that it is calling upon the witness to give the contents of written documents, and is therefore secondary evidence.

A. After we had been in this suit, yes, sir; after we had taken this matter up. I think that we took 3003
this up with the American Anti-Boycott Association and asked them for their literature on this matter.

XQ494. And then you received letters or circulars from them on the subject, did you? A. I think so; yes, sir.

XQ495. Have you got those circulars and letters, literature, at your home office?

Mr. Merritt: Same objection.

3004 George W. Crooks for Complainant—Cross.

A. No, sir; I don't think so.

XQ496. Then afterwards, did you receive circulars from the American Anti-Boycott Association describing in general terms the success they had had in obtaining injunctions in this suit, and in some others?

Mr. Merritt: Same objection.

A. The condition of this suit was reported from time to time, I believe.

3005 XQ497. By the American Anti-Boycott Association? A. I think so; yes, sir.

XQ498. And those were in printed circulars, mostly, weren't they?

Mr. Merritt: Same objection.

A. I would not say as to that.

XQ499. Did you read any printed circulars? A. I think I have; yes, sir.

XQ500. Do you know who it was that first recommended to you the American Anti-Boycott Association?

Mr. Merritt: Same objection.

3006

A. I do not.

XQ501. Did you come here to see them before you joined as a member?

Mr. Merritt: Same objection.

A. I don't remember.

XQ502. Well, then, when you thought that you had a legal grievance against these defendants, you came up here to New York to the American Anti-Boycott Association, did you?

TORN PAGE

George W. Crooks for Complainant—Cross. 3007

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial, and not cross-examination.

A. I was in New York—this is the only time—I have never made a trip here to see the American Anti-Boycott Association.

XQ503. Never did before? A. I have never made a special trip to New York to see them.

XQ504. You were here, and then you went to see them?

Mr. Merritt: Same objection. 3008

A. Yes, sir.

XQ505. And you outlined the facts in your case to them?

Mr. Merritt: Same objection.

A. Yes.

XQ506. And were you informed that the expense of the litigation would be limited to the dues that you were paying the association?

Mr. Merritt: Same objection. 3009

A. Yes, they were

XQ507. And that they would furnish the attorneys to represent you?

Mr. Merritt: Same objection.

A. That, of course, was understood. I don't know—it was never talked over. We understood that when we joined that American Anti-Boycott Asociation, that if our case was worthy of atten-

3010

tion, why, we might receive some redress; we were made no promises at all.

XQ508. Through them?

Mr. Merritt: Same objection.

A. Through them.

XQ509. The point of whether they would take your case depended, of course, entirely upon its merit, is that what you mean?

Mr. Merritt: Same objection.

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A. I would imagine so, yes, sir.

XQ510. But if, after interviews with you, or the facts being presented from you to them, it appeared to be meritorious, they would conduct the litigation and furnish the attorneys, is that correct?

Mr. Merritt: Same objection.

A. I would imagine so.

XQ511. That was your understanding, was it?

Mr. Merritt: Same objection.

3012

A. I would say so, yes.

XQ512. Now, when you saw these customers from whom you received this information, you thought that that was an interference with your business by these men, is that right—an unlawful interference with your business by these men? A. Yes, sir.

XQ513. And that they had no right to notify these customers of yours that the union men would not work on material supplied by you?

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Mr. Merritt: Same objection, and as calling for a conclusion, and not calling for facts, and improper in form.

A. Yes, sir.

XQ514. And did you think that it was an interference at that time with your business that the customers to whom you went refused to buy your material, because they thought or believed the union men would not work on it?

Mr. Merritt: Same objection. 3014

A. Yes, sir.

XQ515. Then afterwards, when the injunction was obtained, and you saw these customers, and you showed it to them, what did they say?

Mr. Merritt: Same objection.

A. I never showed them the injunction.

XQ156. You told them you had one? A. I told them. They told me that even though the injunction was granted, that they would still make them trouble from different sources.

XQ517. Meaning that the union men would not 3015
work on the material? A. Yes, sir.

XQ518. And therefore they would not buy your material, notwithstanding the injunction? A. Yes, sir.

XQ519. Well, is it your understanding of this suit that you could compel those customers to buy your material?

Mr. Merritt: Same objection.

A. I understand that if we had the conditions of

3016 George W. Crooks for Complainatn—Re-direct.

1908-9, we would be allowed to figure on this market.

XQ520. Is your understanding of this suit, that you can, if successful, require these customers of yours to buy your material? A. You know I can't compel anybody to buy my goods. I can't compel anybody to buy my goods. It is a matter of competition. If my price is low, and they have no trouble in using my goods, they will buy my goods.

XQ521. That is your understanding, that you cannot require them to buy your goods? A. I can't
3017 compel them, no.

XQ522. By injunction? A. By injunction, no.

XQ523. But your idea is, that you can require men to refrain from refusing to work upon your materials? A. Yes, sir.

Re-direct examination by Mr. Merritt—

RDQ524. Can you state whether or not Mr. Cook said that the members of the union would not work on your materials, or that they would not be allowed to erect your materials?

3018 Mr. Maloney: Objected to, incompetent, irrelevant and immaterial.

Mr. Mayer: Leading, and not re-direct examination, and it does not point out who might not allow them.

A. He did.

RDQ525. What did he say? A. That the men would not be allowed or would not erect my material.

RDQ526. And he stated to you, as I understood you to testify in your cross-examination, that with-

in six months they expected to unionize the territory between Boston and Washington? A. The eastern territory, he stated, between New York and Washington.

RDQ527. And did he state in what way they would unionize it? A. I don't know as he gave the methods in which they would unionize. He said that it would be closed territory and in a short time the eastern territory would be closed, and we could not sell our goods any place, that we should get in out of the wet early.

RDQ528. You are not a lawyer, are you? A. 3020
No, sir.

RDQ529. Never had any education as a lawyer? A. No, sir.

RDQ530. Did the American Anti-Boycott Association ever ask you to commence this suit, or did you come to the American Anti-Boycott Association and ask it to commence the suit? A. We came to the American Anti-Boycott Association.

RDQ531. When you joined the Association, did the American Anti-Boycott Association give you any promise or assurance that it would take up your case, even if it were a meritorious case? A. 3021
No, sir.

RDQ532. Can you describe Mr. Cook? A. As I remember him, he was a light complected man, you might say a blond, a man that stood possibly 5 feet 10 inches, weighed from 180 to 200, and I think he had one hand off, or he had his fingers off. I think it was one hand off.

RDQ533. You testified to a conversation with J. W. Dick when you were attempting to solicit business. When did that conversation take place? A. That happened about ninety days ago.

RDQ534. I think you also testified in connection with the general question as to Brooklyn, New Jersey, etc., that the Bronx you understood was open territory. Do you know just where the Bronx is? A. No, I do not. I did not know that I testified—I understood that the Bronx was included, or a part of it, and if I testified that it was in the open territory, I was wrong, I did not understand the question.

RDQ535. Do you follow the discount list of the Veneered Door Association? A. No, sir.

3023 RDQ536. Are your discounts greater or less than those published by the Veneered Door Association? A. They are greater.

RDQ537. That is, your prices are less than the prices they publish? A. Yes, sir. Our selling price is less than the prices they recommend.

RDQ538. Is the same true or not, as to the Eastern Sash & Door Association? A. Yes, sir.

RDQ539. When was the conversation with A. D. Smith concerning which you testified? A. At different time. I had a conversation with Mr. Smith in reference to the Elizabeth matter.

RDQ540. I mean in reference to the Elizabeth
3024 matter. A. In February, I think, of 1911.

Re-cross-examination by Mr. Mayer—

RXQ541. How often are you in New York, Mr. Crooks? A. Why, I am here on no stated occasions. I might be here next week and again not for sixty days.

RXQ542. Is there any likelihood of your being here within the next sixty days, conveniently? A. I think that I could be here.

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RXQ543. There may be another line of cross-examination I may take, and may not, and do not want to take it now. If I do decide I shall want to cross-examine you on this line, I shall give you two weeks' notice. There is no way, as I understand it, from your testimony, that the ordinary carpenter working on a building can tell that it is a Crooks' door that he is putting up there? A. I have been told by union men that our construction was blue-printed at all the local unions. Other people can make doors just the same as we make them.

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RXQ544. But the ordinary carpenter cannot tell that it is a Crooks' door that he is working on, a door made in your factory? He cannot tell that it is a Crooks' door, by any mark of identification that is on that door? A. I would not say that the ordinary carpenter could. The ordinary carpenter, such people as work on the Hotel Rector, and had experience in handling our doors, they possibly could tell.

RXQ545. But in all probability, a man that is working one day at the Hotel Rector and the next day in an apartment house up in the upper part of Manhattan, or upper Broadway, could not tell that he was handling a Crooks' door? A. No, I would not think so. The only way you could tell any construction was by the trade marks if they were on them.

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RXQ546. But there are none on your doors? A. No.

Mr. Beattie—

RXQ547. Are you and your fellow members of

the American Anti-Boycott Association organized for any social or philanthropic purpose?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial, and not cross-examination.

A. I really could not tell without going over that, I don't know.

RXQ548. The members are mostly unfriendly to organized labor, are they not?

3029 Mr. Merritt: Objected to.

A. No. I am personally acquainted with some of the members and know they are not. My father for one, is a labor man and has been, and he has been very friendly to labor, always has been.

RXQ549. You are organized altogether in this American Anti-Boycott Association in order to fight labor, are you not?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial and not cross-examination, and on the further ground that it is calling upon this witness to tell the purposes of an organization, which would more properly appear in the constitution itself.

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A. No, sir, we don't want to fight labor.

RXQ550. This association—you and your fellow members? A. I don't know about the association.

RXQ551. Did you think those prior questions referred to your company ?

Mr. Merritt: The prior questions appeared clearly.

 3031

A. You stated that we were a member of that association, and it was organized to fight labor. We are not fighting labor, no.

RXQ552. As a member of the association, are you not fighting labor? A. No, we are fighting for our rights. We are fighting to do business in the United States.

RXQ553. Do you and your fellow members in the American Anti-Boycott Association do any business except carry on the practice of law in this kind of cases to secure your rights?

3032

Mr. Merritt: Same objection.

A. I don't know.

RXQ554. You don't meet socially or for any other purpose you know of, except to carry on litigation, do you?

Mr. Merritt: Same objection.

A. Yes, they meet socially.

RXQ555. The members of the American Anti-Boycott Association? A. I think so.

RXQ556. Have you ever attended any of these conventions?

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Mr. Merritt: Same objection.

A. No, sir.

RXQ557. What are they, balls or banquets, or what are they?

Mr. Merritt: Same objection.

A. Banquets, I think.

RXQ558. When did the last one occur?

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Mr. Merritt: Same objection.

A. I don't know. Within the last eighteen months and prior to six months ago.

RXQ559. You know the main purpose of it is to carry on litigation, do you not?

Mr. Merritt: Same objection.

A. I did not so understand it.

RXQ560. Do you know of any other purpose
3035 that you and your fellow members are carrying out, except hiring lawyers to carry on litigation?

Mr. Merritt: Same objection.

A. I don't know. I would imagine that that was the principal business of the association; I don't know.

Mr. Merritt: I don't want to be understood as assuring the re-attendance of this witness on some future date for further cross-examination by Mr. Mayer, as there is abundant opportunity now to finish his cross-examination.
3036 I have no objection to his re-appearing, and will do my best, but I do not want to in any way hazard my examination by any inability on my part to have him return.

Mr. Beattie—

RXQ561. When you return, I wish you would bring any evidences of payment to this American Boycott Association and the dates that you clade payments to it. It may save my calling

 3037

you as a witness. A. If the matter could be settled to-day, I would much prefer it.

Mr. Mayer—

But it will take up an hour, and I have not the time. If I can spare you the trouble, annoyance and inconvenience of coming back, I will do it.

Subscribed and sworn to before me this day of , 1912

3038

Adjourned to Thursday, Jan. 4, 10:30 A. M., and Friday, Jan. 5, 1912, 10:30 A. M.

3039

3040 John Albert Brown, for Complainant—Direct.

PAINE vs. NEAL.

Hearing Thursday, January 4, 1912, 10:40 A. M., R. 1622, 25 Broad Street.

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. BEATTIE,
MR. MALONEY,
MR. WHITTAKER,
3041 MR. MAYER.

JOHN ALBERT BROWN, a witness called on behalf of Complainants, testified as follows, oath of witness being waived by counsel.

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. John Albert Brown.

Q2. And your age? A. Seventy-two.

Q3. Have you had any conversation with anyone representing the plaintiffs here, concerning your testimony? A. No, sir.

3042 Q4. Haven't had any talk with anyone concerning your testimony? A. No, sir.

Q5. Or concerning the fact that you have been subponaed? A. Well, as regard that, I told my wife that I was subponaed to come here.

Q5a. But none of the counsel in this case? A. No. They don't know, as I know of. They might have heard of it.

Q6. I show you Complainants' Exhibit 23, and ask you if you wrote that letter? (Witnes sexamines letter.) A. Yes, sir.

George J. Speyer, for Complainant—Direct. 3043

Q7. And were you Secretary of the Brooklyn Borough Committee of the Joint District Council of the Brotherhood of Carpenters at that time? A. In Brooklyn, yes.

(No Cross-Examination.)

Subscribed and sworn to before me this day of 1912)

3044

GEORGE J. SPEYER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. George J. Speyer.

Q2. And your age? A. Fifty-seven. 3045

Q3. You are a printer by occupation, are you not, and do business at 183 William Street? A. I am.

Q4. And have been so engaged for a period of nearly twenty years? A. About that time.

Q5. You are proprietor of the business? A. I am.

Q6. For a number of years past you have been doing printing work for the Joint District Council of the Brotherhood of Carpenters, have you not? A. Yes, sir.

3046

Q7. How many years? A. That is hard to tell. At least ten.

Q8. Now I will show you document dated May, 1907, and ask you if you printed that for the Joint District Council? A. Yes, I remember this one. Yes, my name appears on it.

Mr. Merritt: I will ask to have that marked Comp. Ex. 24, in evidence.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Mr. Mayer: Same objection.

3047

Q9. I show you a printed pamphlet dated October, 1908, and ask you if you printed that for the District Council? A. I did.

Mr. Merritt: I will offer that in evidence as Comp. Ex. 25.

Mr. Mayer: Same objection.

Mr. Beattie: Same objection.

Q10. I show you printed pamphlet, circular, dated January, 1909, and ask you if you printed that for the District Council? A. I did.

3048

Mr. Merritt: I will offer that in evidence as Comp. Ex. 26.

Mr. Mayer: Same objection.

Mr. Beattie: Same objection.

Q11. I will show you printed pamphlet or circular, dated February, 1911, and ask you if you printed that for the District Council? A. I did.

Q12. And I show you one dated May, 1911, and ask you if you printed that for the District Council? A. I did.

Mr. Mayer: I object, incompetent, irrelevant and immaterial, and after the action.

Q13. I show you one dated June, 1911, and ask you if you printed that?

Same objection.

A. I did.

Mr. Merritt: I will offer these in evidence as Comp. Exhibits respectively 27, 28 and 29.

Mr. Mayer: Same objection, incompetent, irrelevant and immaterial, and as to those dated subsequent to this action, as not pleaded. 3050

Mr. Beattie: Same objection.

Q14. In what quantitnes did you print these respective exhibits, Mr. Speyer? A. Sometimes 300 or 400, sometimes 500, 600, 700.

Q15. It would run usually between those figures, would it? A. Yes, sir.

Q16. Never printed over 700 at a time? A. I suppose, once, 800, I suppose so.

Q17. And were each of these printed somewhere about the time of the date indicated on the book? 3051
A. There is no date. During the month, or sometimes previous.

Q18. They were printed either during the month or during the previous month which is stamped on them? A. Yes, sir.

Q19. That applies to each of them? A. To each of them, as far as I can recollect.

Q20. I notice on these the Typographical Union stamp No. 112. Is that the stamp that you use? A. Yes, that is what I use.

3052 George J. Speyer, for Complainant—Direct.

Q21. That is your number? A. That is my number.

Q22. No one else is supposed to use that number? A. No. nobody else. As far as I know.

Q23. Now, in each instance, these lots of these respective circulars were delivered at the offices of the District Council on 57th Street? A. Delivered at the office of the District Council.

Q24. And you were paid for the printing by the District Council? A. By the District Council.

Q25. Who gave you the orders for these? A.
3053 That I cannot answer, because I generally receive a copy of the previous list and only the number that shall be printed is on the card.

Q26. Would not any changes or alterations be indicated? A. Yes, they were written in the copy, generally into the previous list.

Q27. I show you another one of these printed circulars, dated September-October, 1910, and ask you if you printed that for the District Council? A. I did.

Q28. And does the testimony you have given concerning these others, apply also to this? A. Yes.

3054 Mr. Merritt: I will offer this in evidence as Comp. Ex. 30.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Q29. When you received this copy for further orders, how did you know that it was for an order? A. Because it is printed for some orders, I suppose.

Q30. There came no letter or request or instructions of any kind with it? A. No, because it is a regular order.

Q31. And there is nothing in it to indicate that it was an order, beyond what you have stated? A. I get the previous list, with the corrections.

Q32. Did anyone ever tell you that such a pamphlet received through the mails with a number marked on it was to be regarded as an order? A. No.

Q33. How long has that practice been in use by you? A. Since I printed these lists.

Q34. That is over three years anyway, isn't it? A. At least three years, I guess.

Q35. And then, for three years or more, during 3056
the time that you have printed this list, you have never received any orders other than the receipt through the mails of one of these pamphlets with the number written on it? A. That is the fact.

Q36. And have you no recollection when you first received that order in that form? A. To the best of my recollection, there was never an order written for these lists.

Q37. And you never had any doubt in your mind in the very first instance that it was an order? A. No, because we do not do these except for the District Council, nobody else could make use of them. 3057

Q38. Take Complainants' Exhibit 30, which is stamped September-October, 1910. When would you say that was printed? About the middle of September?

Mr. Maloney: I object to suggesting to the witness.

A. I can't answer that question, because it may be it was printed October or September. It may be the middle of September or the end of September, I don't know.

Q39. How were you paid, in cash or by check? A. Generally in cash.

Q40. Who handed you the cash? A. I was handed the cash simply by the treasurer.

Q41. That was Mr. Featherston at one time and Mr. Elbridge H. Neal at another? A. Yes, sir.

Q42. And how long back was it that Mr. Neal gave you the cash? A. Since he is Secretary and Treasurer.

Q43. You don't know the date of that? A. No.

Q44. Do you do other printing for the District
3059 Council? A. I do some other printing, yes.

Q45. I show you form of printed agreement, and ask you if you printed that? (Referring to Ex. 8.) A. Was this 112? Yes, sir, it appears here 112—can you see it?

Q46. I can't say for certain. A. It looks like to me as if we printed it.

Q47. Does it look like your work? A. Yes.

Q48. Have you printed agreements of that kind for the District Council? A. It must be some years ago that we printed it, at least two years ago.

Q49. Have you printed agreements of that kind
3060 for the District Council? A. Yes, as far as I recollect, I did.

Q50. Have you printed them from time to time? A. No, I think it was only once. If this is 112 I printed it.

Q51. Then, to the best of your recollection, you only filled one order for printed agreements? A. Yes, to the best of my recollection.

Q52. Was there more than one type of agreement, or just one type, that was in the order that you filled? A. I don't understand the question.

 3061

Q53. Did you print only one type of agreement of this kind, or were there several different agreements, and you printed runs of each? A. Only one.

Q54. Where did you get your order to print the agreements? A. I can't remember any more. I don't know if it was the time of Mr. Meatherston or at the time of Mr. Neal.

Q55. It was from the Secretary-Treasurer, who was in office at the time? A. I suppose so, yes.

Q56. Well, do you know? A. To the best of my recollection. 3062

Q57. Do you recall as to the facts? A. Well, you see, in the printing business, a great many orders come in and it is impossible to answer such a question.

Q58. You could not answer positively, then? A. No, but to the best of my recollection, I received no orders from any of the other officers.

Q59. Have you any idea how many copies of this agreement you printed?

Mr. Beattie: I object; he has not said he printed it.

A. No, I can't recollect how many. 3063

Q60. As I understand it, you thought you printed that agreement? A. Yes, I did, but I don't know how many. If my number is on 112, I have printed it.

Q61. Have you no other way of identifying your work, beyond that of the number? A. Well, there is no way. Sometimes the appearance of a job looks like printed in a certain office, but the type which I use in here is generally used; but if my number is on, 112, I printed it.

Q62. Can you state from the general character of the work as to whether you printed it or not? A. No, I can't, because there are only two or three kinds of type I use, and they are in general use.

Q63. The only thing you could state would be, that if your number was on it, you printed it? A. Yes, sir.

Q64. And if your number could not be deciphered, you could not tell if you did print it? A. I am not positive of it.

Q65. You recall receiving an order to print
3065 agreements of that kind? A. No. How can I answer this question?

Q66. Don't try to explain. If you can't answer, that is all very well. A. No. If it is some years past, I cannot.

Q67. You can't tell me whether or not you ever did print any agreements of that kind?

Mr. Beattie: "Of that kind"—I object as not the best evidence, incompetent, irrelevant and immaterial.

A. I printed for the District Council several agreements.

3066 Q68. Several agreements? A. Several agreements for the District Council, I know that.

Cross-Examination by Mr. Beattie—

XQ69. Do you know what an agretment is, Mr. Speyer? A. Of course I do.

XQ70. When you say you printed several agreements, what do you mean? A. You see, there it is, an agreement—a blank for an agreement. Because generally it commenced "Agreement between So-and-so."

 3067

XQ71. You call it an agreement because it has the word "agreement" on it? A. Yes, that is so, otherwise I don't know.

XQ72. If your number 112 is not on this Ex. 8, then you cannot testify that you printed it, can you? A. No. And if there is another number on this document, I positively deny that I printed it.

XQ73. There is nothing to iniadete from the paper itself that you printed it, unless there is a number on it? A. That is right.

Subscribed and sworn to before me this day of 1912 3068

WILLIAM BECKMAN, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt— 3069

Q1. What is your full name? A. William Beckman.

Q2. And your age? A. Forty-five.

Q3. You are a builder engaged in business in Brooklyn, are you not? A. Yes, sir.

Q4. How long have you been so engaged? A. I have been in the real estate and building business for the last twenty years.

Q5. And are you what they call a speculative

3070 William Beckman, for Complainant—Direct.

builder? Do you build houses for yourself to sell? A. Houses for sale.

Q6. Do you employ men directly yourself, or do you contract the work out to others ? A. I contract the work out, contract.

Q7. Are you a member of the Building Trades Employers' Association of Brooklyn? A. No.

Q8. This last Summer you were engaged in putting up some buildings in Brooklyn, were you not? A. Yes, sir.

Q9. What were those buildings? A. Two five-
3071 stories.

Q10. And where were they? A. 46th Street, 4th and 5th Avenue.

Q11. In Brooklyn? A. In Brooklyn; 120 ft. West of 5th Avenue.

Q12. You purchased some of the wood materials for those buildings from Louis Bossert & Son?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial; after the action was commenced; nowhere pleaded; in no way binding on any of the defendants.

Mr. Maloney: Same objection, and relates
3072 to a different party, has nothing to do with the plaintiffs in this case.

A. Yes.

Q13. What was that contract for? A. Contract for the lumber; lumber and trim.

Q14. Does that include doors? A. It includes everything.

Q15. It includes all the wood materials? A. All the wood materials.

Q16. How much did it amount to? A. $10,000.

 3073

I think, somewheres around $10,000; $10,000 or $11,000, about.

Q17. Did you have any conversation with anyone representing themselves to come from the Carpenters' Union concerning this material?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

I object to all this testimony along this line as incompetent, irrelevant and immaterial, and on the further ground that this testimony concerns facts after the commencement of this action, not pleaded, in no way binding on any 3074
of these defendants, and transactions with persons other than the defendants.

Mr. Maloney: Same objection.

A. No.

Q18. Did anyone ever raise any objection to the trim being used on that building?

Mr. Beattie: Same objection.

A. Yes, sir. A delegate came up there Saturday morning; he went upstairs. I followed him up. He asked the carpenters, he said they had to quit work at 12 o'clock. I asked the carpenters; he 3075
said "We have to quit at 12 o'clock." I said "Why?" He said "We can't handle this trim, it's non-union." I said "That's a nice way, to notify me when I have got all the stuff on the job." He said "We can't go to work or we'll get fined." They stopped Saturday at 12 o'clock. They would not start in Monday. They would not start in Tuesday. Tuesday I advised among union men; I asked them to start in; they said there would be

a fight. I think on Wednesday morning, eight o'clock, the delegate came in. He said "Beckman, will you sign an agreement?" I said "What kind of an agreement? I don't like to sign anything unless I have my lawyer with me." I said "Wait until nine o'clock, I'll have my lawyer come down here." He makes that agreement in, to give them the privilege of putting the trim in, we give them the figures the same as Louis Bossert. I said "All right, I sign that, I don't care whether I buy it by Louis Bossert or the union as long as I buy it
3077 cheaper." I signed the agreement and the men started to work again.

Q19. Who was this man whom you have described as a delegate? A. I don't know; I could not say. I could not say.

Q20. Could you state whether his name was John Wolfinger? A. I did not take very much notice of that. I asked the carpenters to give me the names and I forgot all about it. I was excited. I had all the stuff on the job and they stopped me. I had over 90% in, and I could not stop; I had to go ahead.

Q21. Did you have any conversation with this
3078 man prior to that time? A. No.

Q22. I did not understand your testimony. Just what part of that conversation was with the delegate? What did the delegate state to you? A. He told me, if I signed that agreement, he would start the men working.

Q23. When he first came to the job? A. He went upstairs and notified the carpenters they had to quit.

Q24. What did he say to you? A. He did not say anything to me. I said he should not interfere

with the men when they were working. I asked the carpenters what was the trouble, and he said "You have got non-union trim, we can't handle that trim. We have to stop." I said "That's a fine way to do, when all the trim is on the job."

Q25. You furnished an affidavit in a case brought by Louis Bossert, did you not? A. Yes.

Q26. Have you stated to me all that you recall that was stated by the delegate to you? Have you given me all the conversation which you had with the delegate, as far as you recall it? A. Yes, sir.

Q27. I will ask you to examine your affidavit 3080
for the purpose of refreshing your recollection concerning this conversation with the delegate.

Mr. Beattie: I object, because the witness has not said his recollection needed to be refreshed.

A. I cannot read that.

Q28. In this affidavit appears the following: That there appeared on the job where said work was being odne, etc., a man who said that he represented the Carpenters' Union, and said to you "I hear you have bought some of your trim from Louis Bossert." A. Yes. 3081

Q29. And added "You know they are not a union concern." A. Yes.

Q30. And that for this reason he would have to stop the job by calling the carpenters out? A. Yes.

Q31. Now, I will ask you if that is true to the best of your recollection now?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

Mr. Maloney: And I object also to getting

in testimony in the case in the form in which it is drafted in affidavits by complainants' counsel, instead of confining himself to examination of the witness, who is not at all hostile, and is perfectly willing to testify to anything that he knows.

A. Yes.

Q32. Was the agreement which you signed an agreement in exactly the same form as that he first asked you to sign? A. No, I guess on a piece
3083 of blank paper. My lawyer was there when the agreement was made.

Q33. No agreement was presented to you until you met with your lawyer? A. No, until I met with my lawyer.

By Mr. Beattie: I move to strike out his evidence on the ground that it has not been shown that any of the materials of any of the plaintiffs is involved in his evidence.

Mr. Mayer: Also on the ground that it is clearly hearsay and incompetent, irrelevant and immaterial; no identification of the parties.

3084 Mr. Maloney: And also that it relates to matters supplemental to the bill of complaint, and no way in issue, and in no way binding on any of the defendants.

Cross-Examination by Mr. Beattie—

XQ34. Did you say you cannot read English, Mr. Beckman? A. I cannot read English.

XQ35. That affidavit that has been partly read to you by Mr. Merritt you never read, then? A. No, I never read it.

XQ36. How do you know what is in it? A. He called my attention to what was the trouble and I told him what the trouble was.

XQ37. It was never read to you as a whole, was it? A. Never read to me, no, I just gave the word what happened to me on the job.

XQ38. You told them what to put into it, but nobody read it after it was put in? A. No.

XQ39. You are referring to the affidavit purporting to have been made October 18, 1911, in the action of Louis Bossert against Frederick Dhuy and others? A. I don't know the delegates' 3086
names, I could not say.

XQ40. But the affidavit you have just testified about to Mr. Merritt and myself is the affidavit purporting to be made October 18, 1911, in the action of Louis Bossert against Frederick Dhuy and others, isn't it? A. Yes.

XY41. How many carpenters did you have on that job? A. I guess there were about twenty, twenty-one or twenty-two, about that.

XQ42. Were they all union carpenters? A. I lump my jobs out, I never hire no men, I lump them out. 3087

XQ43. You had nothing to do with the hiring? A. I always lump my jobs out.

XQ44. You don't know whether the men were union or not? A. They were all union, I know that.

XQ45. How do you know that? A. This man I lump them out to would not hire anything but union men.

XQ46. Is that the only reason you have for saying they were all union? A. They were all union. They all had their cards.

3088

XQ47. Did you look at the cards? A. Sometimes I look at them.

XQ48. Did you look at the cards of these twenty men? A. No. When the delegate comes around, he makes them show the cards.

XQ49. Did you tell those men before they were hired that that material on the job was non-union? A. No, sir.

XQ50. Was there anything on the material to indicate that it was non-union? A. No, sir.

XQ51. Was anything on this material to indi-
3089 cate what firm made it? A. No.

XQ52. You knew that union carpenters would not work on non-union materials, didn't you, before you bought it? A. I did not know anything about it. I always got my stuff of Louis Bossert and never had any trouble before. This was the first time I ever had any trouble.

XQ53. You never told your men before that it was non-union? A. No, I did not tell them. They knew where the stuff came from.

XQ54. How did they know where the stuff came from? A. They see the wagons all the time, they knew where the stuff was coming from.

3090 XQ55. You don't know whether they saw the wagons or not? This particular job, I am referring to. A. Yes, the foreman carpenter he signs the ticket, everything, all the stuff that comes on the job.

XQ56. He did in this case? A. Yes, sir, he signed the tickets and looked after the stuff I was getting in.

XQ57. Who was the foreman on the job? A. The man I gave the contract to, he hires the men on the job.

XQ58. Do you know who the foreman on that job was? A. I don't know his name.

XQ59. You did not hire him? A. I did not, no.

XQ60. Who was it hired him? A. The fellow who took the contract on the job.

XQ61. Who had the contract? A. A fellow named Jack Wilson.

XQ62. It did not concern you as to what carpenters were hired or about the proceedings done by the carpenters, work done by the carpenters, it was all under contract, you had nothing to do with it? A. All under contract. 3092

XQ63. It was not part of your business to see what men were employed? A. I know the only thing, I gave the job out, and he hires union men. I know that.

XQ64. You think he hired union men? A. Yes.

By Mr. Maloney:

XQ65. Have you got the agreement you signed at the time, with you? A. No.

XQ66. Did you give it to the complainants here? A. The agreement with the delegate?

XQ67. Yes.

The Witness: Did I give it to you, Mr. Merritt? 3093

XQ68. I will ask you if you can recall whether this is what the agreement said:

"Brooklyn, October 4th, 1911.

"I, the undersigned, William Beckman, do hereby agree that in my next building operations in the purchase of my trim I will give the preference to union mills and manufacturers?"

A. That is correct.

XQ69. Is that what your lawyer drew up for you? A. That is right.

XQ70. Have you done any building since? A. No.

XQ71. How long were the men out altogether—about two days? A. They stopped Saturday to Wednesday morning they started again.

XQ72. How many men did you have? A. About eighteen or twenty men, something like that.

XQ73. Carpenters? A. Yes.

3095 XQ74. And who was the contractor who employed the carpenters? A. A man named Jack Wilson.

XQ75. You have been in building operations for about twenty years, I understood you to say? A. Yes, real estate and building about twenty years.

XQ76. Were you ever a member of the union yourself? Do you know anything about carpenters' A. No, sir.

XQ77. Are you familiar generally with union conditions? A. No.

XQ78. Did you know that union men would not work on non-union made material? A. I never

3096 heard of it before.

XQ79. Never heard of it before this case? A. That is the first time I ever struck it.

XQ80. Did you ever hear of it before, in your building business, that union men would not work on what they claimed was non-union material? A. No, I never heard of it.

XQ81. Did you never hear they would not work with non-union men? A. They would not work with non-union men.

XQ82. You have heard that? A. Yes.

XQ83. But you never heard of their refusing to work on non-union material? A. No.

XQ84. Are you referring to your own experience, or had you ever heard it before? A. Had never had it happen to me before, not on carpenters' work.

XQ85. Did it ever happen on any other kind of work? A. Sometimes we got a tile man and the union men would not work with him.

XQ86. Do you know what Wilson said to the carpenters when they came on the job? A. No.

XQ87. Where is Wilson now? A. Wilson, he 3098 keeps up in 50th Street, 51st Street.

XQ88. In Manhattan? A. No, in Brooklyn.

XQ89. What is he, a foreman or a contractor? A. A contractor.

XQ90. Was this job what you call a lumping job? A. Yes.

XQ91. He takes the job, to do it for so much? A. For so much.

Mr. Mayer—

XQ92. He furnishes the labor and everything? A. Yes, labor and everything.

XQ93. He does not furnish the material? A. 3099 No, sir.

XQ94. Did you ever hear that the union men would not allow lumping? A. I don't know.

XQ95. You don't know whether you ever heard that? A. No.

XQ96. You don't know what wages these carpenters received? A. No, that I could not say, either.

XQ97. As a matter of fact, you had nothing to do with their wages at all? A. Nothing to do with them.

XQ98. Do you know whether anybody told the carpenters in advance that they would be expected

3100 Bernard P. Salmon, for Complainant—Direct.

to work upon this material which was made in a non-union shop? A. No.

Subscribed and sworn to before me this day of 1912

3101 BERNARD P. SALMON, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. Bernard P. Salmon.

Q2. And your age? A. Thirty-three.

Q3. And you are connected with the Iroquois Door Company? A. I am.

Q4. That concern has an office here in New York City, has it not? A. It has.

Q5. Just what business does it do in New York in a general way? A. Wholesale sash, doors and

3102 trim.

Q6. It has a warehouse in this vicinity? A. We have no warehouse of our own. We have from time to time certain goods carried in a public warehouse.

Q7. What is your connection with the concern? A. I have charge of the New York end of the business.

Q8. You are the head man in this neighborhood are you? A. I have charge of this end of the business, yes, sir.

Q9. Your concern has done business from time to time with the R. McMillen Co., has it not? A. It has, yes.

3103

Q10. I show you a letter purporting to come from the Iroquois Door Company and addressed to the R. McMillen Company, which is Comp. Ex. 2, and ask you if you wrote that letter? A. I dictated it, yes, sir.

Q11. You still purchase some merchandise from the R. McMillen Co., do you not? A. Why, small amounts from this office. I believe our other houses do some business with them.

Q12. Referring to houses in other sections of the country besides New York City? A. Yes, sir.

Q13. Do you purchase any merchandise from them from this office, for New York City, or for the Island of Manhattan, rather? A. No, sir.

3104

Q14. Did you, prior to the writing of this letter? A. Are you speaking of Manhattan, or New York City?

Q15. The Island of Manhattan? A. Practically none on the Island of Manhattan. Our business on Manhattan ha salways been very limited indeed.

Q16. Do you now purchase any merchandise through this office from the R. McMillen Company for New York City? A. No, we do not.

Q17. Does this letter correctly represent your motives for that change of policy?

3105

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, calling for a conclusion on the part of this witness.

Mr. Beattie: Same objection.

A. In the main, yes.

Cross-Examination by Mr. Maloney—

XQ18. Do you purchase trim from any of these complainants in this case, Morgan & Co., McMillen & Co., Paine Lumber Co., Lotham Cypress Co., Bristol Door & Lumber Co., and Curtis & Yale Company? A. Let me understand you. When

3106 you say trim, do you mean technically trim and doors?

XQ19. I mean anything other than doors. A. Why, we have purchased some small amounts of trim from the McMillen Co.

XQ20. That is in sizes 1⅜ and under, is it? A. No, that would be doors. I don't understand the question.

XQ21. Sash? A. Oh, sash. We purchased sash from McMillen & Co. and we have had some from Gould, although not directly from this office.

3107 XQ22. Was that 1⅜ and over? A. 1⅜ and 1⅛.

XQ23. None 1¾ or over? A. Not that I remember of.

XQ24. From either of the concerns? A. Not that I remember. We only make 1¾ at the Eastern factory.

XQ25. Where is your Eastern factory? A. At Sydney, New York.

XQ26. Your factory is what the union men call a union factory in every way, isn't it? A. Why, not in every way, no. When I speak of our factory, do not misunderstand it. We operate it, we do not own it. We take the output.

3108 XQ27. The Iroquois Door Co. is a union concern, though? It has an agreement with the union. A. We handle union-made goods.

XQ28. Do you manufacture any goods yourself? A. We do not, with the exception of the fact that in Buffalo we have a small shop where we manufacture a few odds and ends of goods.

XQ29. For special orders? A. Yes.

By Mr. Beattie—

XQ30. In Complainants' Ex. 2, you speak of the union situation in New York City. Didn't you mean by that that a large part of the employers of the city known as the Master Carpenters' As-

buy non-union material? A. I did not know it at that time, that there was any such agreement.

XQ31. You know now that there is such an agreement? A. I have heard it stated, yes.

XQ32. And naturally, you could not sell R. McMillen non-union material to members of the Master Carpenters' Association? A. We had two reasons. One was, that we were having trouble with McMillen. The other was, that we were having trouble in meeting union competition on price with those purchased under the terms of our 1910 contract. 3110

XQ33. What was the trouble with McMillen's goods? A. I mean, that we were having trouble in disposing of them in New York.

XQ34. Wasn't that because of the agreement among these Master Carpenters not to handle the goods? A. I can't say why it was. I can simply say that we were having trouble and losing sales.

XQ35. And your second reason, you might state that more in detail? A. The second reason was due to the fact that McMillen were charging us more money for the type of door that we were using at that time in New York—the business in 3111
the Bronx, and possibly a little business in the upper part of Manhattan, principally Bronx—than competitors who were selling union-made doors were asking the same people that we were selling.

XQ36. Are you a member of the Veneered Door Association—your company? A. No, sir.

XQ37. Is your concern a member of the Eastern Door Sash & Blind Association? A. We are not.

By Mr. Maloney—

XQ38. Are you familiar with the building conditions generally in New York? That is, the old city of New York? A. Why, in a general way,

XQ39. Well, most of the speculative building is now done above the Harlem River in the Bronx, isn't it? A. Yes, sir.

XQ40. There is very little vacant land below the Harlem for speculative purposes? A. Yes, sir.

XQ41. Such vacant land is now used principally for hotel and apartment house construction? A. I suppose so.

XQ42. And on that account, a great deal of this material that is required, is required for use in the Bronx, where the building operations are very
3113 extensive? A. Yes, and there is one further reason that our trade has been in the Bronx, and that is, that there has been a class of trade that we have been equipped to handle and have followed up. We have not followed it up in Manhattan.

XQ43. The gross of the trade is principally in that direction, in the Bronx, that is, along these speculative building lines? A. Yes. Although in the past year there has not been as much business in the Bronx as in Manhattan. The principal business in the last year here in the city has been, largely construction of large buildings, but in the Bronx business has been very quiet.

3114 XQ44. But the business in the Island of Manhattan has only been large because of the construction of these large dwellings? A. That is true, yes. But the business in the Bronx has been worse than anywhere in and around New York; I mean Greater New York, including all the Boroughs.

By Mr. Mayer—

XQ45. There has been a depression in the building business of the city of New York? A. Very serious.

XQ46. Very serious for the past year? A. Yes.

By Mr. Maloney—

3115

Bronx than in other parts of the city? A. Yes, sir.

XQ48. That part of the City has been the one which has been the most rapid in growth, hasn't it, the Bronx, the last five or ten years? A. Prior to the last couple of years, yes.

XQ49. I mean, particularly with reference to the building business? A. Yes.

By Mr. Mayer—

XQ50. You say that you could get your doors from union shops cheaper, practically, or just as 3116
cheap, as you could get them from McMillen out West? A. We could. The type of doors used in the Bronx.

XQ51. That is your principal business? A. During the latter part of 1910.

XQ52. And that is the main reason you wrote this letter to them? A. That was one of the reasons, yes.

XQ53. And I take it that where you could get a door of the type that you wanted as cheap, made in a union shop, as one which was made in a non-union shop, you would prefer to use the union-made material? A. We would, yes. 3117

Re-Direct Examination by Mr. Merritt—

RDQ54. You instructed a cancellation of this Complainants' Exhibit 2. Was that cancellation actuated partly because you felt you could get the doors cheaper from some other place? A. It was.

RDQ55. And this reason which you have given here for cancelling this order was not the entire reason? A. It was not the entire reason, no.

RDQ56. What union concern did you buy doors of as cheap? A. Conway Veneered Door & Lumber Company, Milwaukee.

RDQ57. And they are a union concern? A. They are. Afterwards from the Champlain Manu-

RDQ58. Have you ever submitted estimates to the R. McMillen Company since then for goods to be used in New York? A. No. But we have them in our office. We have in our office a copy of their contract with the Buffalo office, so I know what their price is.

RDQ59. You find that these union concerns can furnish as low a price on all doors which were used? A. No, not on all doors, but on the type of doors which we use in the City of New York. On the type of doors which constitute 90% or 95%
3119 of our business in the City of New York; and in speaking of the City of New York, I think I will have to alter that, as the Boroughs of Manhattan and the Bronx and the city of Brooklyn, possibly; it would not include the outside and outlying district of Queens, where you get on to the suburban construction, in the country.

RDQ60. What type is this? A. Veneered door, one panel construction. We have never carried two-panel doors in stock here.

RDQ61. And you are buying those doors to-day as cheap as from the McMillen Company? A. Cheaper.

3120 RDQ62. From the Vermont concern? A. Yes, sir.

RDQ63. You did not make any attempt to get the R. McMillen Company to reduce their prices? A. We did not, for the reason that it has been our custom from the time we have done business with them, to establish a price early in the year which controls that year's business. That price was not a definite contract, and carried no obligation on our part to purchase all of our doors from them. It was simply a fixed and established price which governed until the first of next year.

RDQ64. You made no attempt to secure a lower price for the coming year? I see this letter is

 3121

written in October, 1910? A. It was covered again by a contract made by the Buffalo office January 1, 1911. In the early part of 1909 we had purchased the same type of door from McMillen Company at a very satisfactory price, and through 1909 they told us that it would be necessary to advance the price the first of January, 1910, and on the first of January, 1910, when we formulated our new schedule, the advance was very strong indeed. It was so strong that it was impossible for us to do business on their line of goods in New York at a profit.

3122

RDQ65. You did do business with them for a period of ten months? A. We did, because we had to.

RDQ66. Can you give me the price of lots in any way—or do you object to doing it? So that we can make a comparison. A. I have not got the exact figures thoroughly in mind, of course. The question of door prices is rather complicated, and a good deal of detail. The type I have in mind is a flush moulded one-panel, and as I have it in mind is a 2 ft. 6 by 7 door, standard in New York—was $4.40 or thereabouts. Their price was arrived at by taking a discount of 72½ from the 3123
Eastern list at that time; that had three additions, one .35 for 1¾ in thickness, one of .60 for making door one-panel instead of five cross panel, and another of .60 for flush moulding, making the net price on the door somewhere in the neighborhood of $4.40. We afterwards bought these same doors from Conway at something slightly under $4.00.

RDQ67. Do you know whether the McMillen price is over $4? A. It is my impression that the price is the same as in 1910, but that I cannot state positively, that is my impression.

3124 Christian Benjes, for Complainant—Direct.

11:45—adjourned for luncheon.
Subscribed and sworn to before me this day of 1912

PAINE vs. NEAL.

3125

Hearing resumed 2:15 P. M.

Same appearances.

CHRISTIAN BENJES, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. Christian Benjes.

Q2. What is your business? A. Carpenter

3126 Q3. That is, you are a master carpenter? A. Yes.

Q4. And where is your place of business? A. 80 Avenue A.

Q5. In New York City? A. Yes.

Q6. And how long have you been engaged in that business? A. Well, I guess about twenty-five years.

Q7. That is, in—— A. In the carpentry line, yes.

Q8. Always in New York City? A. Always in New York City.

 3127

Q9. You have done business with Louis Bossert & Son? A. Yes.

Q10. Purchased materials from them from time to time? A. Yes.

Q11. For how long a period of time?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial; relating to no business being done with any of the Complainants, in no way connected with the issues in this case; not pleaded.

Mr. Maloney: Same objection. 3128

A. Well, about fifteen years, something like that, about.

Q12. Now, in the Spring of 1910 you were engaged in connection with the erection of some buildings at 85 East 10th Street in the City of New York, were you not? A. Yes.

Q13. And you placed a contract for the wood-materials in connection with those buildings with Louis Bossert & Sons, did you not? A. Yes, sir.

Q14. Did that include all the woodwork? A. Yes, sir.

Q15. That included doors? A. Everything: doors, windows and everything. 3129

Mr. Mayer: Let it be understood on the record that I object to all this testimony with regard to any transactions with Louis Bossert & Son on the ground that the evidence is incompetent, irrelevant and immaterial, in no way binding on any of the defendants; does not concern the business of the complainants or any of them.

Mr. Merritt: Let it be so understood with regard to all counsel.

3130

Q16. Did you have any conversation with anyone representing himself to be a delegate of the Carpenters' Union concerning the use of this material? A. Before?

Q17. At that time. A. Well, he came along and said I had to cancel the contract from Louis Bossert.

Mr. Maloney: I move to strike that out as not responsive; no one is specified.

Q18. Do you know the man's name? A. No, I
3131 don't. It is two years ago. I could not place the man if I saw him.

Q19. Is that what he stated to you? A. Yes, that is what he said, that I would have to cancel the contract from Louis Bossert because it was not union stuff.

Q20. Did you cancel it? A. I did.

Q21. Why did you cancel it? A. Well, on account of the union.

Q22. What do you mean, on account of the union? A. That I could not do the work.

Q23. Explain that a little more fully, if you will. A. If I did not, they would stop the building.

3132

Mr. Mayer: I move to strike it out. I object to his explanation.

Q24. Did he state anything to you to that effect?

Mr. Mayer: Incompetent, irrelevant and immaterial.

A. No, he did not say anything; he told me that I had to cancel the contract from Louis Bossert.

Mr. Maloney: I object to all this examina-

tion as we are talking now of somebody who is unknown to any of us, and it makes it impossible to cross-examine or to meet such testimony.

Q25. Do you employ union carpenters in connection with your work? A. Yes.

Q26. Only union carpenters? A. Yes.

Q27. Why do you employ only union carpenters?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial.

3134

A. Because I could not get along in any other way.

Q28. Why couldn't you get along in any other way?

Mr. Mayer: It calls for a conclusion on the part of the witness, and I object to it also as being incompetent, irrelevant and immaterial.

A. If I don't have any union men I could not do the work, they would not let me do any work.

Q29. I don't see what you mean. Who wouldn't let you do the work? A. For instance, if I have work on the job and I have not union men, they make me stop. 3135

Q30. They make who stop?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. My men.

Q31. Do you mean that you find it necessary to employ union carpenters in order to carry on your work on the Island of Manhattan?

3136 Christian Benjes, for Complainant—Direct.

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. I got to supply union men on that job I had.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrelevant and immaterial, and also on the further ground that although the witness appears to be a perfectly fair witness, willing to give testimony as to whatever he knows, he has not been properly examined with reference to
3137 facts, times, places or names, so that it is impossible to cross-examine him or to meet the testimony, assuming it to be competent, and that the testimony purported to be given, is hearsay and in no way binding upon these defendants.

Mr. Mayer: No proper answers having been given by the witness to any of the questions propounded upon which cross-examination may be had, and all of the answers given with the exception of the witnesses name and age, if the age was given, being hearsay, counsel is unable to cross-examine this witness, and I
3138 move to strike out all the testimony of this witness as incompetent, irrelevant and immaterial, and hearsay.

Subscribed and sworn to before me
this day of 1912

Charles Rubinger, for Complainant—Direct. 3139

CHARLES RUBINGER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. Charles Rubinger.

Q2. And what is your age? A. Thirty-nine.

Q3. You are a builder, or master carpenter? A. Builder.

Q4. And you do business in the City of New York? A. Yes, sir. 3140

Q5. Where is your place of business? A. 220 Broadway.

Q6. How long have you been engaged in business in the City of New York? A. Oh, about twenty years.

Q7. Are you a master carpenter? A. No, sir.

Q8. A building contractor? A. No. I am not a contractor. I build for myself.

Q9. You build for yourself? A. Yes, sir.

Q10. You were conducting certain building operations in the Spring of 1910, were you not? A. Yes, sir. 3141

Q11. And where were those building operations? A. 137-151 West 12th Street.

Q12. And have you done business with the concern of Louis Bossert & Son? A. Yes, sir.

Q13. For how long a period of time? A. Oh about seven or eight years.

Q14. Had you made any contract or planned to make any contract with Louis Bossert & Son for the wood materials to go into these buildings on West 12th Street?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, in no way binding on the defendants, and no way competent to prove any transactions by which the plaintiffs have been in any way affected.

Mr. Maloney: Same objection.

A. Yes, sir.

Q15. Did you have any conversation with anyone at this time who pretended to come from the Carpenters' Union concerning the use of Bossert's
3143 materials? A. Yes, sir.

Q16. When was that? A. That was about July last year, 1911.

Mr. Maloney: I also object to this as subsequent to the action, immaterial, and not within the issues.

Q17. Who was the man, if you recall? A. He told me he was a delegate from the union of carpenters.

Q18. Did he give his name? A. I believe his name was French.

Q19. What did he state to you?

3144

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

Mr. Maloney: I object to the "I think his name was French."

Witness: I am almost sure his name was French.

A. He came around and asked me where I bought my trim. I said, "Why must I disclose where I bought my goods?" "Well," he said, "we must know it, because if you are going to buy

3145

the trim from a non-union shop, we are going to take the men off the job." Says I "I am not trimming; there are no carpenters here to do the trimming." "Well," he said, "I will take the framers off." I said "I don't see how you can ask me when we're on the third tire of beams where I buy my goods." "Well," he said, "very well. If you don't tell me I will order the carpenters off"—which he did.

Q20. Did the carpenters quit? A. Yes. They quit work, the job was off for about three days. Of course, I went over to Bossert and I told him that I could not use his trim, that the union would not let me go ahead, and that he would have to cancel the contract.

3146

Mr. Mayer—

XQ21. And he did? A. Yes.

Q22. Did that contract include doors? A. Yes.

Q23. Do you employ union carpenters in connection with your building operations? A. Yes.

Q24. Why do you employ union carpenters?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

3147

A. Because they don't allow us to go on building with any other men except union men.

Q25. Who doesn't allow you? A. The union.

Mr. Maloney: I move to strike out the conversation between the witness and Bossert as hearsay, and in no way binding upon the parties.

Q26. What union do you mean? Will you ex-

plain? A. Well, the Carpenters' Union. If I was to take in other carpenters, the other trades would not stand for it, they would not want to work.

Mr. Mayer: I move to strike that out as incompetent, irrelevant and immaterial, and as a conclusion on the part of this witness, no ground stated for such opinion.

Mr. Beattie: Same motion.

Q27. You mean, if you employed any carpenters who were non-union, the other trades would not
3149 work on the building? A. Would not work with them.

Mr. Maloney: I object to the question as calling for a conclusion or an interpretation of what the witness said and also as incompetent, irrelevant and immaterial, and not binding in any way on these defendants.

I move to strike out the testimony of the witness as incompetent, irrelevant and immaterial, hearsay, in no way binding upon these defendants, and relating to matters not in the issues and supplemental to the bill filed
3150 herein, and with parties having no concern with the plaintiffs, and as principally containing conclusions, not facts.

Mr. Mayer: Same motion.

Cross-examination by Mr. Beattie—

XQ28. How many carpenters did you have on that job? A. Well, I have always—it is not that I employ the carpenters direct, I have a contractor, and he employs them. At times he needs five and at other times twenty.

 3151

XQ29. This job in 12th Street—how many were there when they quit work? A. At the time there must have been about twelve of them.

XQ30. And who employed them? A. The carpenter cotnractor.

XQ31. Who is he? A. A fellow by the name of Soomsky.

XQ32. What is his first name? A. I can't remember just now. Oh, yes, Sam.

XQ33. The contract is what is known as a lump contract, just for the labo?r A. Yes.

XQ34. You were not present when this Mr. 3152
French spoke to the carpenters about quitting, were you? A. He spoke to me first.

XQ35. And did you hear what he said to the carpenters? A. He told them that they would have to get off the job until I could produce a contract from a union mill, the contract for the trim, and he also gave me a little book containing the names of the union mills. He told me if I got it from any one of those, then the job could go ahead.

XQ36. How do you know these were union carpenters? Did you see their cards? A. He came around every day, mostly; he examined their 3153
cards.

XQ37. This same man? A. This same man.

XQ38. Do you know what wages they were paid? A. I don't know.

XQ39. Did you tell these union carpenters when they were employed that the wood material was to be non-union? A. No.

XQ40. Did you know that union carpenters would not work on non-union material? A. I did not know it.

XQ41. How long have you been a builder in the city? A. I have been building for about seven or eight years.

XQ42. Was there anything on this material to indicate where it had been made? A. No, not to my knowledge.

XQ43. Where did you get the trim after you canceled the Bossert order? A. Marks & Jacobson.

XQ44. Is that a union concern? A. Yes.

XQ45. Did you try to get any of the non-union
3155 men during the three days? A. No.

XQ46. Could have got all you wanted? A. I made no attempt.

XQ47. Ever had any labor trouble on your other buildings during the seven or eight years that you have been building? A. No, with the exception of the Carpenters' Union, about three years ago.

XQ48. Where was that? A. 83 and 85 Baxter Street.

XQ49. Were you employing the men then? A. No, sir.

XQ50. What was that trouble about? A. Also about non-union trim.

3156 XQ51. Did the men refuse to put up the trim at that time? A. It was not the men who refused it. the delegate would not let them.

XQ52. Didn't you know that the union men had agreed themselves not to put up non-union trim? A. I don't know anything about it.

XQ53. How do you know that the delegate wouldn' t let them, or whether they wouldn't put it up? A. He took them out of the building.

XQ54. Didn't he simply tell them it was non-union trim? A. I don't know what he told them.

XQ55. Had you told them that they were expected to put up non-union trim before you hired them? A. No. I don't hire them.

XQ56. What happened on that job? A. I finished with non-union men.

XQ57. No other trades went out? A. The other trades finished out their work first.

XQ58. You have had no case where any of the other trades declined to work with non-union men, have you, in your experience? A. No, sir; not exactly.

XQ59. So when you say that the other trades 3158
would decline to work with non-union carpenters, that is a supposition on your part? A. That is what the plumbing contractor told me.

XQ60. The plumbing contractor on this 12th Street job? A. Yes.

XQ61. And is that the only information you got on that subject? A. Yes, sir.

By Mr. Maloney—

XQ62. This job which you had in Baxter Street was three years prior to the 12th Street job? A. Two years.

XQ63. And there you learned for the first time 3159
that carpenters would not work on what they claimed was non-union made material? Who was the contractor on that job? A. The same contractor.

XQ64. This man Soomsky? A. Yes.

XQ65. So he also knew at that time that carpenters would not work on what they claimed was non-union material? A. Since that.

XQ66. Did you ask Soomsky in 12th Street whether he had told the carpenters when he em-

3160 ployed them that they would be expected to work on material made under non-union conditions? A. No. Soomsky did not finish the job in Baxter Street.

XQ67. Did you have any of the material on the job in 12th Street at the time that this man whose name you say was French called? A. No.

XQ68. You had simply made arrangements to buy it from Bossert? A. Yes, sir.

XQ69. And Bossert consented to the cancelling of the contract? A. Yes, sir.

3161

By Mr. Beattie—

XQ70. You did not loose any money on the cancellation, did you? A. Yes, I did.

XQ71. What did you lose? A. By canceling it, I had to pay more money for it.

XQ72. Did you have to pay Bossert anything for canceling the contract? A. No.

By Mr. Maloney—

XQ73. What was your contract price with Bossert for the material? A. I could not tell you
3162 that offhand.

XQ74. What was your contract price with Marks & Jacobson? A. I would have to look that up, I can't tell you.

XQ75. How can you be sure now? A. I have got both contracts. I remember that it was quite some more than I would have got the material from Bossert which I would have had. I had to go out at the last moment and hunt up a builder to get the material.

XQ76. Was this material from Marks & Jacobson better material? A. No.

3163

XQ77. Have you bought anything from them since? A. From whom?

XQ78. From Marks & Jacobson? A. No.

XQ79. Where did you get their name? A. Their name was in the book.

XQ80. Was that one of the names in the list they gave you? A. Yes.

XQ81. Had you ever done business with them before? A. I knew them, but I had not done any business with them.

XQ82. Whose trim did you handle on the Baxter Street job? A. Bossert's.

3164

XQ83. What was the amount of the trim you had purchased from Bossert for this job in 12th Street, in dollars and cents? A. I can't tell the amount. I would have to go to the office to tell you.

XQ84. Were you subpoenaed to come here? A. Yes, sir.

XQ85. And to bring with you any contracts or papers that you might have? A. No, it did not say that.

XQ86. You can give us no idea of the difference between the contract price with Bossert—— A I could over at the office, but not here.

3165

Re-direct examination by Mr. Merritt—

RDQ87. In referring to the Baxter Street job, how long after the union men quit work was it that you secured non-union men? A. Well, it took me about for or five weeks.

Re-cross-examiantion by Mr. Maloney—

RXQ88. Why did it take you as long as that?

A. Because I had been after them all the time that they should let me finish the job.

RXQ89. If you had commenced to look promptly for the non-union men, you could have got them, but you wanted to make arrangements with the union if you could? A. Yes.

By Mr. Merritt—

RDQ90. Were there any other men working on the job besides carpenters at the time the carpenters quit work? A. I believe the plasterers were
3167 working.

RDQ91. What I am getting at is this: Did you delay in your efforts to secure non-union men because there were other trades at work there?

Mr. Maloney: Objected to, calling for a conclusion.

A. Under the circumstances, we had to see our plumbers done first, and have other trades done first, which was always done after the trimming of the houses, and they had to be concluded first, and then I had the carpenters come in the house.

3168 RDQ92. Then you did wait until the plumbers and certain other trades had finished their work before you attempted to employ the non-union carpenters? A. Yes.

RDQ93. Why did you so wait?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, in no way binding on the defendants.

A. Because the plumbers and carpenters, the plumbers did not want to work with non-union carpenters.

Charles Rubinger, for Complainant—Re-cross. 3169

Re-cross by Mr. Mayer—

RXQ94. Did they tell you so? A. Yes.

RXQ95. Who told you so? A. The plumber.

RXQ96. Who? A. The plumber.

RXQ97. The plumbing contractor? A. Yes, the plumbing contractor.

RXQ98. That is the only information you have on the subject? A. Yes.

RXQ99. What the plumbing contractor told you? A. Yes, sir.

3170

By Mr. Maloney—

RXQ100. You did not have any non-union men there? A. No, but I asked him if he would go on with the work if I got non-union men to trim the house, and he said no, his men would not work.

RXQ101. But I understood you to say that the trim is usually put in after? A. About together.

RXQ102. It is immaterial whether they are done before or after? A. They usually do that work together.

RXQ103. As a matter of ordinary practical results, it is immaterial? A. Yes, immaterial.

3171

Subscribed and sworn to before me this day of 1912

3172 Louis Abel, for Complainant—Direct.

LOUIS ABEL, a witness called on behalf of complainant, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Louis Abel.

Q2. And your age? A. Forty-one.

Q3. You are a contracting carpenter engaged in business in Long Island City? A. No, Brooklyn.

Q4. Where is your place of business? A. 327 Irving Avenue.

3173 Q5. How long have you been engaged in business there? A. About twelve years.

Q6. In the same line of business? A. Yes, sir

Q7. In the spring of 1911 you had a contract with Louis Bossert & Son for certain wood materials, did you not? A. Yes.

Mr. Mayer: I object to that as being after the time this action was commenced, not the time this action wa scommenced, not pleaded, in no way affecting these complainants, incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

3174 Q8. What did that contract include? A. Lumber and trim, doors in the house.

Q9. You had purchased them for certain buildings which you were erecting? A. Well, it was just this one that I was erecting at the time.

Q10. Where was the building? A. In Long Island City, Queensboro Bridge.

Q11. Did you have any conversation with any person representing himself to come from the Carpenters' Union concerning the use of any of this material?

3175

A. Yes, men were fitting the doors, and a party represented to be a delegate called me on the telephone and wanted to see me at 9 o'clock in the morning about the doors, that he could not let them go in. I could not get there at 9 o'clock, and he said, "If you can't be there by nine I will call off the carpenters." I got there by eleven and he had called all the men off.

Mr. Mayer: I move to strike the answer out, incompetent, irrelevant and immaterial, hearsay, not within the knowledge of this witness and not affecting any of the defendants, not identifying the person.

3176

Q12. When you arrived there, the men had left? A. The carpenters were standing around, the delegate and the organizers of Long Island City were there, two each.

Q13. Did you know any of them? A. I knew one by sight, a Brooklyn delegate.

Q14. Do you know his name? A. No.

Q15. You don't know the names of any of them? A. No, I don't.

Q16. How do you know them, by sight? A. Well, one of my men told me that these were the delegates and organizers of the union, shop organizers they called them.

3177

Q17. Had you ever seen any of them before? A. I had seen them about a year before that, yes, a year ago.

Q18. In what connection? A. Representing the union, a delegate.

Q19. Had you conferred with them before? A. Yes.

Q20. Did you have any conversation with any

3178 of these delegates at this time? A. Well, they told me that they would not let the doors go in, the trim, because he said nothing was union made, manufactured. They would pass everything else but these doors—it was a special door, a country door.

Q21. Did that include all the doors? A. Not all of them, the store doors and house doors they did not reject.

Q22. Was it a particular type of door that was concerned? A. Yes, a veneered door.

3179 Q23. Was it or not what is known as a kore-lock door? A. It was a lock turned door; I could not recall whether it was a kore-lock or not.

Q24. State again just what the delegates told you concerning the door?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, not identifying the parties making the statements, not binding on these defendants, not involving any of the complainants, hearsay.

A. He said that they would not allow the men to hang the doors.

3180 Q25. Referring simply to the one class of door? A. Yes.

Q26. Was it referred to as a country door? A. Yes, that is what is spoken of as a country door.

Q27. What happened after that? Did the men go back to work? A. No. They put a picket on duty to see that they would not work any more. The men wanted to finish, but the pickets were there to stop them.

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, hearsay, and not

identifying anybody, stating a conclusion, and move to strike it out.

Q28. Did not the men go back to work? A. No.

Q29. Didn't they go back later? A. No.

Q30. Weren't the other doors hung? A. No. The general contractor notified me, he gave me three days' notice if I didn't proceed with the job to finish it he would get another contractor to finish it. I tried to get other doors, but I could not get them within three weeks. Another carpenter engaged over there had these doors removed and had these doors put in. 3182

Q31. Well, the other doors were eventually put in? A. The other doors were eventually put in.

Q. 32. And was the other trim put in also? A. The rest of the stuff was all right, only the doors.

Q33. Only this particular variety of doors? A. Yes.

Q34. What was done about these doors, were they never used? A. I have got them standing in my shop now.

Q35. Do you know what the amount of this entire contract amounted to? A. The entire contract with the lumber and trim? 3183

Q36. Yes. A. About $2,500.

Q37. Then I understand that this other contractor who went in to finish the work, used the trim and the variety of door that was not objected to? A. No trim, the trim was about finished.

Q38. There was nothing but doors concerned? A. Nothing.

Q39. He used the doors, then? A. No, he did not use those doors.

Q40. He used the other doors? A. No.

Q41. He used some of the doors? A. No.

Q42. Some of them were already hung? A. Some of them were completed, the store and house doors, which they did not object to, were completed.

Q43. You completed all the work except the hanging of this particular variety of doors? A. Yes, and we had half of these hung.

Q44. And you hung the doors that were not objected to? A. Yes.

3185 Q45. What became of the half of the doors that were objected to, but which were already hung? A. The other carpenter took them out and they stood on the job, and I had to send for them. They were taken away by the contractor.

Q46. They were removed from the building? A. Yes, sir.

Q47. And you had them carted away? A. Yes, sir.

Q48. And you don't remember the names of any of these delegates or organizers? A. No, sir.

Q49. Would you know them if you saw them? A. Not the two from Long Island City, but the
3186 two from the Brooklyn section I think I would if I saw them.

Q50. Can you describe either of them now? A. One is a short, stout man, dark hair, but the other one I don't recall him. I would know him by sight if I saw him.

Q51. Was the man you are trying to describe, thick set? A. Yes.

Q52. Did he have a moustache? A. Yes, a black moustache. It was supposed to be Mr. Wolfinger, that's what my men told me, but I don't know.

Q53. Your men told you Mr. Wolfinger, but you don't know? A. No, I don't know.

Q54. Did your men tell you why they quit work? A. Yes, because the delegate stopped them, because they would not let them hang the doors.

Q55. They stated that to you? A. Yes. The delegate told me that himeslf.

Cross-examination by Mr. Mayer—

XQ56. What did the delegate tell you? That the union men would not hang non-union made material? A. Yes. 3188.

XQ57. That is what he told you? A. Yes.

XQ58. It is a rule of the organization that they would not hang non-union made material? A. Yes.

XQ59. That is what he told you about non-union material? A. Yes.

XQ60. And then the men went off, did they? A. Yes.

By Mr. Maloney—

XQ61. How many of these doors did you carry away? A. About thirty of them. 3189

Q62. What was the value of these doors? A. I should judge about $4.50 to $5 apiece.

XQ63. The price you paid for them, or the price you were receiving? A. I could not say what I paid for them, because this was a lump sum, but I figure a door of that kind about that price.

XQ64. About $125? A. That is without the labor I had spent on fitting and hanging some of them.

XQ65. About fifteen you had hung? A. About fifteen, yes.

XQ66. How long does it take a man to hang a door? A. To hang a door and put on a lock, between two and three hours.

XQ67. One man can put on about three or four doors a day? A. Yes.

XQ68. What wages were the men receiving, do you know? A. $4.50 a day.

XQ69. The total value of this contract for the lumber and trim was $2,500? A. About $2,500, maybe a little more.

XQ70. Did you sue the contractor for damages
3191 for not letting you finish the job? A. No.

XQ71. Did he sue you? A. No, it is not settled yet. He says he has a bill against me for $260, something like that, and he has not settled with me on the job yet.

XQ72. You and he had a dispute about the amount due from you for failure to complete the contract? A. No, I wanted a settlement on the job, and he said he had a bill against me from this for carpenter for $260, he thought it was.

XQ73. And you dispute that? A. No, I have not disputed that.

XQ74. You simply can't agree on the amount
3192 yet? A. I won't say that; I am satisfied with anything, I want to get it off my mind.

XQ75. Who was the general contractor? A. Michael Armendinger & Son?

XQ76. Do you know where he got the doors? A. No.

XQ77. Did you go up there to look? A. Yes, I looked them over afterwards; it was supposed to be an oak job, and he got birch doors afterwards.

XQ78. Substituted birch doors for oak doors? A. Yes.

XQ79. Are they more expensive than the oak doors? A. Well, he claims he bought them at a union mill, which made them more expensive.

XQ80. What is the cost of birch doors over oak doors, is it greater? A. No, they are about the same, very little difference.

XQ81. You don't know where he got them? A. No.

XQ82. Why didn't you get them? A. We wanted to get the oak door and could not get it inside of three to four weeks.

XQ83. Why not get a birch? A. I did not know 3194
at the time that they would let me complete it in birch when the specifications called for oak, and it was started in oak.

XQ84. Did you ask him? A. I did not ask him, no.

XQ85. Was the contract by you what they called a lumped contract? A. No.

XQ86. Are you a member of any union, carpenters union or any other union? A. No.

XQ87. Have you ever been a member of any union? A. No.

XQ88. Did you supply other material as well as the lumber? A. No. 3195

XQ89. Did you make a contract to do it for a specified sum? A. Yes.

XQ90. How long after the men quit work did the general contractor start to do the work? A. About a week or ten days.

XQ91. Where did you inquire about doors to complete the job? A. From this same list that the delegates gave me of union mills.

XQ92. And you could not get the doors from any of the men mentioned on the list? A. Not in-

side of four weeks, and they wanted the job finished at once, the general contractor—he gave me three days' notice.

XQ93. Did you say anything to the union men after this first day about allowing you to complete the contract? A. I?

XQ94. Yes. A. To my men or to the delegate?

XQ95. To the union men, these men you say were delegates of the union? A. No, I did not bother.

3197 XQ96. You did not complain about their not giving you sufficient time? A. I told them I could not get the doors at a special time, and he told the general contractor that there was a carpenter could get them, and I said, "If you can find anybody that will get them and complete the job, go ahead."

XQ97. You told them you were satisfied to have some one else get them. You were satisfied as long as they were able to get somebody else to do it within that time? A. Yes.

XQ98. Do you know who the other carpenter was who finished the job? A. No; a party from
3198 Long Island City, I don't remember his name.

XQ99. Did you ever have any trouble with any of the union men before this time? A. Well, a little, yes.

XQ100. What about? A. A job on a brewery one time, with a few window framers.

XQ101. Rising over the use of non-union made material? A. Yes.

XQ102. Then you knew, when you were using this particular material on the Long Island City job, that union carpenters would not work on what

they claimed was non-union material? A. Oh 75% of the union carpenters are handling non-union material in Brooklyn.

XQ103. You did know from previous experience with the carpenters that they would not work upon non-union material, or claimed that they would not work on non-union material? A. There's plenty of men working on it right along.

XQ104. But you had had a previous experience of this kind? A. On certain jobs only.

XQ105. Now, when you hired these men to go to work on the Long Island City job, did you tell 3201
them that they would be expected to work upon material made under non-union conditions? A. No.

Re-direct examination by Mr. Merritt—

RDQ107. Do you employ union carpenters only in connection with your work? A. Yes, sir.

RDQ108. Why do you employ union carpenters only?

Mr. Mayer: Objected to as incompetent, irrelevant and immaterial.

3202

A. Well, I have seen mix ups in buildings because the other trades are nion and the delegates would not let them work there if they were not union carpenters, they would stop the other branches.

Mr. Mayer: I move to strike out the answer as incompetent, irrelevant and immaterial, a conclusion on the part of the witness, absolutely no foundation laid for the answer.

By Mr. Beattie—

RXQ110. How do you know the delegates of other trades would not allow them to work? A. They threatened to call out all the other trades in the building. They have done it before.

RXQ111. In any case of yours had they done it? A. Well, in this particular case they had called out the marblemen.

RXQ112. How do you know they had called out the marblemen? A. The delegate told me, "I have called out the marblemen," he said.

RXQ113. What job was this? A. Long Island City. He told the general contractor that everything would be stopped the next day unless the thing was adjusted.

RXQ114. Who told this: Was it to you? A. Yes, the general contractor told me.

RXQ115. Who was it? A. The delegate, the organizers.

RXQ115a. What delegate told you this? A. The carpenters delegate.

RXQ116. What was his name? A. I don't remember the name.

RXQ117. He told you that the other trades—what others, the marble cutters? A. Marble cutters, electricians, painters.

RXQ118. Would be called out if you did not settle the trim question, is that it? A. Yes.

RXQ119. That had never happened in any building you had had? A. No.

RXQ120. How many disputes have you had with union labor before that time? A. Only one before that.

RXQ121. No other trade was called out on that, was there? A. No. They stopped my men.

RXQ122. Where was this other job? A. Liebmann Sons Brewery, Forest Street and Evergreen Avenue.

RXQ123. Was that a trim question, too? A. Window frages, yes.

RXQ124. How long were your men out? Was there a strike? A. No, it was not a strike; he stopped the men from handling the stuff; they were out about three days.

RXQ125. You don't call that a strike? A. Yes. I suppose it's a strike.

RXQ126. Did you try to get non-union men dur- 3206
ing the three days? A. No.

RXQ127. You could have got all you wanted? A. No, I don't know about that.

RXQ128. How many jobs have you had in the past year, 1911? A. About 25, I suppose.

RXQ129. What is the biggest job you had? A. The biggest one, I guess, was in Long Island City.

RXQ130. What did you do there? A. Put up this building.

RXQ131. What building? A. This building that we referred to before, office building.

RXQ132. And how big a building is that? A. 3207
Oh, about three stories.

RXQ133. And about how wide? A. Fifty feet.

RXQ134. And your contract was only for the carpenter work, was it, or for the whole building? A. Carpenter work.

RXQ135. Who had the contract for the building? A. Michael Armendinger & Son.

RXQ136. What is the next biggest building you have had in the last year? A. Trommers.

RXQ137. What did you have to do there? A. Put an extension to the hall, the dancing hall.

RXQ138. Did you have the contract or subcontract? A. Subconstract.

RXQ139. An extension to the dancing hall? A. Yes.

RXQ140. That is only a one-story building, isn't it? A. Yes.

RXQ141. A sort of a building in a park, isn't it? A. Yes.

RXQ142. And the other 23 jobs you had in the past year were all smaller than that? A. Yes, mostly smaller.

3209 RXQ143. Did they employ union men on all these 25 jobs in the past year? A. Yes.

RXQ144. Were they all out in Brooklyn? A. Yes.

RXQ145. Weren't some of these just repair jobs? A. Well, alterations, yes.

RXQ146. What wages did you pay them? A. $4.50 a day.

RXQ147. Can you give us the name of any one man you paid $4.50 a day to, journeymen carpenter, and his address? A. Adam Frank. The addresses I don't know. Do you want more?

RXQ148. Yes. Give me any name whose ad-
3210 dress you have got? A. Oh, addresses, I haven't got any.

RXQ149. Hasn't your union accused you of paying less than the union rates of wages? A. No.

RXQ150. Haven't had any trouble about that? A. No.

RXQ151. How long have you been in the building business? A. About 12 years.

RXQ152. In Brooklyn all the time? A. Yes.

RXQ153. There were no other trades working

on the Liebmann Sons Brewery, were there? A. Yes, all kinds of people working there.

RXQ154. I mean, on the extension of Trommers' Pavilion? A. Yes, all kinds of people there.

RXQ155. There were other people working there? A. Electricians, plumbers, painters, roofers.

RXQ156. You had nothing to do with them? A. No.

Mr. Beattie: I move that all this evidence be stricken out on the ground that it does not involve any of the material of any of the plaintiffs, and as otherwise incompetent, irrelevant and immaterial. 3212

Mr. Mayer: Same motion.

Subscribed and sworn to before me this day of , 1912)

3213

Adjourned to Friday, January 5, 1912, 10:30 A. M.

3214 Archibald C. Bush, for Complainant—Direct.

PAINE vs. NEAL.

Friday, January 5, 1912, 10:40 A. M.

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. MALONEY,
MR. MAYER,
MR. WHITTAKER.

ARCHIBALD C. BUSH, a witness called on behalf
3215 of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Archibald B. Bush.

Q2. And your age, please? A. Thirty-one.

Q3. And you are a builder carrying on business with your father under the name of Wesley C. Bush, are you not? A. I was. I am not now. We are under another name now.

Q4. What name? A. The Bush Building Company.

3216 Q5. How long since you have been conducting it under that name? A. On the 26th day of June, 1911.

Q6. How long prior to that have you been engaged in the building business under the name of Wesley C. Bush, with your father? A. Personally, since April, 1910.

Q7. You have from time to time made purchases of the Albro J. Newton Company, have you not? A. Yes, some.

Q8. In the fall of 1910 you were doing certain

building operations in Brooklyn, were you not? A. We were.

Q9. What were those building operations? A. At that time we were building a lot of apartment houses—eight apartment houses on Bedford Avenue near Avenue D, Flatbush, Brooklyn.

Q10. And you purchased certain materials for those buildings from the Albro J. Newton Company, did you not?

Mr. Maolney: Objected to, incompetent, irrelevant and immaterial, having nothing to do with the case, in no way binding upon these parties, and in no way affecting the complainants. 3218

Mr. Mayer: Same objection.

A. Yes.

Q11. When did you make this contract with the Albro J. Newton Company? A. Sometime during May, 1919.

Q12. And will you tell me what the contract covered? A. It covered interior trim of the house.

Q13. Did that include doors? A. That included doors. 3219

Q14. Can you state what the contract amounted to in dollars? A. It amounted to about $8,000, in the neighborhood of $8,000.

Q15. Did you have any conversation with any one representing himself to come from the Carpenters' Union concerning this wood material?

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, hearsay, having no bearing on the issues here, not affecting the complainants in any way.

Mr. Mayer: Same objection.

A. Yes, I did.

Q16. Did you know the man's name with whom you talked? A. Yes. His name was Heinen, I believe, Matthew C. Heinen. I thought I had his card with me (produces card).

Mr. Merritt: I will offer this card in evidence as Complainants' Exhibit 31.

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, in no way bearing
3221 upon the issues in this case or affecting the complainants, and in no way binding on the defendants' hearsay.

Mr. Merritt: No objection is made to the fact that the card is copied into the record instead of the original being submitted.

COMPLAINANTS' EXHIBIT 31.

"Telephone 3923 Main (Union Label)
Matthew C. Heinen
Business agent for shops and unfair trim
228 Kingsland Avenue,
3222 Brooklyn, N. Y.
Representing
Joint District Council of the United Brotherhood of Carpenters and Joiners of America
Brooklyn Headquarters
255 Atlantic Avenue
corner Boreum Place."

Q17. Did Mr. Heinen hand you this card? A. He did.

3223

Q18. Where was it that you met him? A. It was on the first floor of the building which was afterwards known as 2532 Bedford Avenue.

Q19. One of these buildings you were erecting? A. Yes, sir.

Q20. Did he come unexpectedly to you, or did you solicit this meeting? A. I sought him when I found he was there on the buildings.

Q21. But did he come to the buildings on your invitation? A. He did not.

Q22. Do you remember the date? A. On the 19th day of September, 1910.

3224

Q23. Where did you first see Heinen and what was he doing when you saw him? A. I saw him in the basement of this building which afterwards became known as 2532 Bedford Avenue, the north one of the buildings that we were putting up. He was on the first floor of the building, standing at the jib of the cellar stairway talking to a framer.

Q24. Did you hear what he said? A. No, I did not hear any of the conversation between him and the framer. I spoke to him as soon as I went into the building.

Q25. What did he say to you?

3225

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, in no way binding on these defendants, in no way affecting the complainants; hearsay.

Mr. Maloney: Same objection.

Q25. Give the conversation which took place between you at that time?

Mr. Mayer: Same objection.

A. Well, as I remember, I asked him what the

trouble was. I think that was the first question I put to him. I believe I spoke to him first. I had been informed preliminary to this on the street by a watchman that there was a man calling a strike on the buildings. I went through the buildings, a different part, and was directed to him until I came to the point where he was. I asked him what the trouble was, and he told me that he was calling the men off because they were using unfair trim. As I remember it, I asked him what his name was and whom he represented, and he pro-
3227 duced the card which I have just shown you; and I objected to calling the men off. I had already been talking to some of the carpenters and had considerable work on at that time, such as the placing in of the sash of the building to protect the interior white plaster coaot of the building against a possible storm which seemed to be imminent at that time, and he said that he had come to the building under outside orders to call off the men who were working on unfair trim, and that they had tried to enforce their demands at the shop of Albro J. Newton Company, and had not succeeded in getting any attention at Newton's
3228 mill, and that they were taking this step in order to bring about their ends by unionizing the mill; and I objected very strenuously to taking off the carpenters particularly, and he told me that he was powerless in the matter, that he had been ordered to call a strike at 9:30, and that the men must go off, that he had no option himself. I told him I would like very much to have him have a conversation with my father; told him, also, that we had always been employers of union labor and treated the carpenters in a very fair manner in

every way, and had very harmonious relations with the local delegates, and that I was very much surprised that any such step as this should be taken, particularly as it was entirely unexpected to us, in fact, we had no forewarning whatever; so he agreed to remain on the premises there while I went and telephoned my father to see if I could make an appointment with him to see my father. I did go over to Flatbush Avenue to telephone and got my father on the telephone, and when I came back he was still there. I made an appointment with him for the next morning. He 3230
went away in some haste finally, after having called out the carpenters and stairbuilders and the framers, and left word that he would be back the next morning at ten o'clock. But he did not return the next morning or at any other time.

Q27. Did the men quit work? A. Our men quit work.

Q28. How many men quit work? A. I think there were about three or four framers, probably four stairbuilders, and I thinkabout 3 or 4 carpenters.

Q9. Have you stated the entire covnersation as far as you recall it? A. Yes, so far as I recall the 3231
incident, I think I have covered everything. Of course, there was considerable conversation as to the justice of calling the strike. I have not repeated it all. I have simply reiterated, I think, what was said.

Q30. Was any reference made to any other buildings on which this material was being uesd?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

Mr. Maloney: Same objection.

A. I believe that the delegate said that he had other buildings in which he was calling off the men, in fact, I am sure he mentioned Norris's name, Frank Norris, a man that we knew, a man that was in the neighborhood, being one.

Q31. Do you recall whether or not he stated that men were going to be called off of all of the buildings where Newton's material was being used?

Mr. Mayer: Objected to, leading, incompetent, irrelevant, immaterial, hearsay, in no way affecting the complainants or their merchandise, in no way binding on these defendants.

3233

A. I think he did.

Mr. Maloney: I move to strike out the answer, and also the answer to the preceding questions giving the conversation with the delegate and with the watchman, as hearsay, incompetent, irrelevant and immaterial.

Q32. Mr. Bush, you state that you did not hear what this delegate said to the framer? A. I don't believe I did. I don't remember now that I did hear any of his conversation with the framer.

3234

Q33. You made an affidavit, didn't you, in the case of Albro J. Newton Company against Henry Erickson? A. I did.

Q34. How long after this happening was it that that affidavit was made, to the best of your recollection? A. Why, it seems to me this affidavit was made in March of this year, if I am not mistaken, it was early spring of this year. I believe; it might have been January, February or March, it seems to me.

3235

Q35. The affidavit made in the case of Albro J. Newton Company against Henry Erickson. Didn't you make an affidavit in that case when your men were still out? A. Yes. The date was on the affidavit. I have forgotten.

Q36. I show you the affidavit. Is that your affidavit? A. The 28th of September. I had forgotten it was so close to this happening, I thought it was later on in the winter. But that was the date, undoubtedly.

Q37. You made an affidavit within a week or ten days after this happening? A. Yes, it was nine days from the time.

3236

Q38. I want you to examine that affidavit simply in view of the question I asked you, as to whether you did overhear any of the conversation between the framer and Mr. Heinen? A. I see I have here that I heard him tell the framer that they must quit work, that the man was packing up his things.

Q39. I don't want to read the affidavit, but I want to ask you whether, after reading that, you have any independent recollection now that you did overhear any conversation between the framer and Mr. Heinen? A. Well, when I said I did not hear any of his conversation I meant I did not stand aside in a general way and eavesdrop on him to hear what he was talking to the men about, but as far as telling them to quit work, why I believe, if my memory is correct, that I did hear him directly tell him that he must quit his work, in fact, he was quitting his work when I got in there and was packing up his tools, and left shortly afterwards.

3237

Q40. Then you testify that everything in that

affidavit is true to your recollection as of the date when you made it?

Mr. Maloney: Objected to, incompetent, irrelevant and immaterial, and as leading the witness, and as trying to put the affidavit in evidence.

A. It is true.

Q41. And you find in that affidavit the statement that you did hear Heinen tell the framer that he must quit work? A. Yes, that's in the affi-
3239 davit.

Mr. Maloney: I move to strike that out as incompetent, irrelevant and immaterial, and not a proper method of proving a fact.

Q42. Are you willing to swear that that is true? A. I am.

Q43. And then I would like to ask you now, whether you have any independent recollection on that subject, or whether you simply swear it is because you swear that you know that affidavit is true as to your recollection at the time you made
3240 it?

Mr. Maloney: I object to this method of examination as a species of cross-examination of a perfectly fair witness, in no way hostile, and he has already given every indication that he had no independent recollection, stating that he believed it was so, but could not recall any of the conversation.

A. I would say that I have an independent memory outside of that affidavit, that the delegate

told the framer to quit his work—that I have an independent memory of it.

Q44. You mean by that, that this affidavit has refreshed your recolection on that point? A. Yes, it has refreshed my memory on that point.

Q45. Did you hear any of the men state why they quit work?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial, hearsay, no identification of the persons mentioned as making the statement.

3242

Mr. Maloney: Same objection.

A. I heard the men say that they quit work because they were ordered to quit.

Q46. Did you hear them state anything more in that connection?

Mr. Mayer: I object to that on the same ground.

A. Some of them expressed their regret that they had to quit and said they did not think it was quite a square deal to us. One of them stated that he thought it was an outrage that he had to leave.

3243

Mr. Maloney: I move to strike out the answer as not stating what was said, and as incompetent, irrelevant and immaterial, hearsay, in no way binding on these defendants and not specifying anybody, nobody identified so as to cross-examine the witness.

Q47. Could you give the names of any of the men who stated that to you? A. No, I don't think I could identify any of them.

Q48. Now you employ union carpenters exclusively in connection with your building operatons? A. We did at that time.

Q49. And had you in times past in connection with your building operations? A. Yes, for a number of years.

Q50. Are you a member of the Building Trades Association of Brooklyn? A. No, not so far as I know. My father may be personally, but I don't know that he is.

3245 *Cross-Examination by Mr. Maloney—*

XQ51. Or the Brooklyn Builders' Association? A. My father is a member and has been an officer of the Mechanics' & Traders' Exchange.

XQ52. That is the one I mean? A. Yes.

XQ53. You have been in this business only since April, 1910, is that right? A. That is all.

XQ54. Did you buy the material yourself from Newton & Company? A. I did not.

XQ55. Who made the arrangements, your father? A. My father.

XY56. This was September, 1910, when this operation was going on? A. Yes, the operation was
3246 going on at that time.

XQ57. Had you had any personal experience with any other operation before that time? A. This was my first operation.

XQ58. What business did you have then, as early as April, 1910? A. The operation had started at that time.

XQ59. So that this incident occurred in September, 1910, but the operation itself commenced in April, 1910? A. Yes.

XQ60. When had the material from Newton

been ordered, do you know? A. During the month of May, shortly after we started the operation.

XQ61. And had any part of it been delivered to the place in September, 1910? A. Yes. The window frames, and I am not sure whether those window frames were in the contract for the interior trim, but part of the window frames at least were bought from Newton.

XQ62. Were you familiar at all with your father's business prior to that time? A. In a general way. I was not giving close application to it. 3248

XQ63. Did you know in a general way that union men would not work on material that they claimed was non-union material? A. I never heard of such a thing.

XQ64. You learned it, then, at this time when that man came—— A. At that time.

XQ65. Who told you that the men would not work on what they called non-union material? This man Teinen, whateve rhis name was, Heinen? A. Yes, Heinen.

XQ66. And he also was sorry that you were having any difficulty, but said that he was powerless in the matter, did he not? A. Yes, exactly. 3249 He was very gentlemanly and friendly in his conversation in every way.

XQ67. Were you employing those carpenters directly, your firm, your company, your father, or was the contract sub-let for their work? A. We were employing them direct.

XQ68. Were you speculative builders? A. Speculative builders.

XQ69. Did you personally employ these carpenters? A. No, I did not employ them.

XQ70. Do you know whether they were told in advance that they would or might be expected to work upon non-union material? A. Nothing was ever said of it, at all.

XQ71. Now, which one of these men was it that you heard the delegate tell to quit? A. A framer.

XY72. Do you know him? A. I doubt very much if I would know him if I saw him.

XQ73. He already had his tools, had already stopped work, and had his tools, you say, when you heard the delegate stop him? A. That is, he
3251 had his tools?

XQ74. You said he had picked up his tools and had already quit when the delegate spoke to him? A. Yes, he was in the process of quitting. I think he was packing them.

XQ75. Which is the fact, did he have his tools and was in the process of quitting when you saw the delegate, or heard him speaking to him? A. I should say that that was the fact.

XQ76. Well, now, wasn't it just an impression you got, that the delegate told him to quit, because you saw him leaving, packing up his tools? A. I am not certain at this time, to say whether
3252 I—my impression is, that I heard the man tell him that he must quit his work and leave.

XQ77. Well, what was the use of telling him to quit when he was already quitting and had his tools picked up for that purpose? A. Well, that thing possibly could happen, that the man, seeing me coming in here, might think he could go back to work, and have it in mind that it was not necessary to quit, or something of that kind.

XQ78. Did this man appear to be going back to work? Was there anything to indicate that he or

the other men were going back? A. No, I don't think there was anything there to give me that impresion.

XQ79. Well, the other men had quit? A. They were standing around, none of them were working.

XQ80. How long after Heinen went into the building was it that you saw him? A. That I really could not say, I did not see him go in.

XQ81. You did not see him go in? A. I did not see him go in.

XQ82. He was in there some time when you got the information from the watchman? A. Yes. 3254

XQ83. And when you got into the building, the men had already quit work? A. Yes, some of them had.

XQ84. The carpenters? A. The carpenters had, yes.

XQ85. When I say carpenters, I mean all these men, framers and stairbuilders, they're all carpenters? A. Yes.

XQ86. About twelve there, were there? A. I think about twelve in the whole number, yes.

XQ87. Now, can you give us the exact language that anyone of these carpenters used to you? A. 3255 No, I don't think I could.

XQ88. And you did not make a note of his name, or anything of that sort? A. No.

XQ89. Did you finish up the job? A. I did.

XQ90. And with non-union men? A. No; union men.

XQ91. Union carpenters? A. Union carpenters.

XQ92. And was that because the matter was adjusted? A. It was adjusted.

XQ93. How long afterwards? A. I think about

three weeks afterwards. It was a limited period, two or three weeks.

XQ94. Tell us how that came to be adjusted? A. Why, I believe that the Newton Company took legal action in order to get a temporary injunction against the carpenters' union calling off their men.

XQ95. And then it was after the injunction was made that the men went back to work? A. The main part of them. One man went back to work before that was accomplished, through the grace of the union, who was willing to have him go back
3257 and finish up the frames in the windows.

XQ96. Was there very little of the work to be done? A. Such as putting the frames, yes, the sash, there was not very much of it, one or two men could do it.

XQ97. The union consented to let one man go back to finish up some window sash? A. Yes.

XQ98. And that was work that needed to be done, was it? A. In order to protect the place, yes.

XQ99. Was there much other work to be done throughout the place? A. Oh, yes, considerable, the building was not completed until January.

3258 XQ100. And then, after the injunction enjoined the men from refusing to work on the building, they went back to work? A. They did.

XQ101. Did the other work go on in the meantime: the other work on the building? A. It did, yes. The plasterers were working there, the plumbers were working there.

XQ102. They were union men? A. They were union men.

XQ103. How did you know these carpenters were union men, did you see their union cards?

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A. Never saw them. Just hearsay. It occurs to me to go back to one of your questions now, as you state that carpenters included framers and stairbuilders, that what we knew as the carpenters, those that were working on the trim, were the only ones that were employed directly. The stairbuilders were employed by a stairbuilder concern, and the framers were employed by two men who had a sub-contract to do the framing of the building.

XQ104. The only men in your employ, then, were the carpenters doing general work? A. Yes.

3260

XQ105. An dthe other carpenters were divided up among subcontractors? A. Yes, subcontractors.

XQ106. But they were all members of this Carpenters' Union in that vicinity? A. As far as I know, they were.

XQ107. That is what you understood from the delegate, was it? A. That was it, yes.

XQ108. You say that you employed union men in the past? You don't know anything about that at all, do you? A. Only from what my father says about it.

3261

XQ109. Your father did not talk with the delegate? A. He did not.

XQ110. Did he have any conference with the union men or officers after this incident that you refer to? A. Yes, I believe he did; yes, I am quite sure he did.

XQ111. And where was that, at the office of the union? A. No, it was in either the Mechanics' & Builders' Exchange in Brooklyn or at the Builders' Association office.

XQ112. Were you down there at those conferences he had? A. I was not.

3262

XQ113. There were some conferences about arbitration in this connection, weren't there? A. believe so, I am not certain about it.

XQ114. You simply heard that from your father? A. Yes.

XQ115. Was he a member of both of these associations? A. Yes, the Builders' Association and the Exchange.

XQ116. Have you had any operation since this one, any building operation? A. We are engaged in one now.

3263

XQ117. You have had no further trouble with your men in any way, have you? A. We have not.

XQ118. Employed union men? A. I can't say as to that; I am not building in the City of New York now.

By Mr. Mayer—

XQ119. As I understand it, Mr. Bush, Heinen told you the men were going to quit on other jobs where non-union trim was being used, is that so? A. Yes.

XQ120. So that the impression you got from Heinen was that the unions were objecting to working on non-union trim? A. Exactly.

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XQ121. That is the impression you got? A. That is so.

XQ122. And did Heinen tell you in effect that the unions did not want to work on non-union trim because it was made by other than their own members? Did he go into it in detail in that way? A. Inasmuch as saying that they had tried to unionize the shop and had not succeeded, and that was the method they were employing to do so.

XQ123. And he gave you the impression gen-

erally that the attitude of the union was, that they wanted their men employed in making material which their own men would work on later on in the buildings? A. That is true.

XQ124. You had a perfectly free and fair discussion with this man? A. Very much so.

XQ125. He did not threaten you in any way? A. Not at all.

XQ126. He was gentlemanly in his conduct? A. Entirely so.

XQ127. And answered all your questions freely? A. He did. 3266

XQ128. And expressed regret at the close of the interview that he was not able to assist you? A. Yes, sir.

XQ129. In other words, he seemed to be carrying out a well-defined policy in regard to this matter? A. Exactly.

Re-Direct by Mr. Merritt—

RDQ130. Mr. Bush, you stated that Heinen said he was powerless in the matter? A. Yes.

RDQ131. Did he not state what he meant by being powerless? A. Yes; I think——

RDQ132. What did he state in that connection? 3267
A. He stated, as I remember the conversation, that he had no authority in the matter, that he was an out-of-town man, had come from some central point, I am not sure whether I remember, it was St. Louis or Chicago, that I got the impression he had come from, and that he had come with orders, with the intention to unionize Newton's shop, and having used his best efforts to do that, and not having succeeded, that their next step was to call off the union men who were working on

Newton's trim, and that in this particular case, that he had been directed by some outside brotherhood or union to call a strike on our building at a certain hour that morning, and that he was there to carry out orders.

RDQ133. Is that what you meant when you stated that he said he was powerless? A. Yes. That he was powerless to permit the men to remain at work. He had been told to call them off and had to carry out orders in order to hold his position or to faithfully carry out his work.

3269 RDQ134. There seems to have been some point made here on your cross-examination as to whether Heinen told you that the men would not work on the stuff or whether he told you that the men were not going to be allowed to work on the material? Which is the fact?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial. The testimony is perfectly clear on that point.

Mr. Maloney: That they would not work on non-union material.

3270 A. That is, there is a point between whether the men of their own accord did not want to work on it, or whether they had been told that they must not work on it. I think the men of their own accord were perfectly willing to work on it, but that they had been ordered not to work on it and must stop work on account of the orders.

Mr. Mayer: I move to strike out the answer as a conclusion on the part of the witness.

Mr. Maloney: And it does not state what the facts are.

3271

RDQ135. Did Heinen state to you that the men were unwilling to work on the material themselves, or that he had to call them off? A. Said he had to call them off. He did not say anything about their individual unwillingness to work on the material.

Re-Cross Examination by Mr. Mayer—

RXQ136. But you were perfectly correct in your statement when you said in answer to one of the questions that I propounded to you that Heinen told you that the union men did not want to work on non-union trim which was made by other than their own brother members? A. Well, yes, in general, but not as regards these particular men.

3272

RXQ137. It was a general statement he made, that the members did not want to work on trim that was made by other than their own members? A. Yes.

By Mr. Maloney—

RXQ138. That is, they would not work on non-union trim? A. That is, as an organization.

3273

RXQ139. Union men? He was not specifying these particular individuals? A. That is right.

Mr. Mayer: I move to strike out all the testimony of this witness on the ground that it affects others than the complainants in this action; it particularly does not affect any of the complainants, has nothing to do with any of the complainants' goods, as hearsay, incompetent, irrelevant and immaterial, not

3274 Albert J. Schwarzler, for Complainant—Direct.

properly identifying the parties in this action.

Mr. Maloney: Same motion.

Subscribed and sworn to before me this day of , 1912

3275 11:35—adjourned for luncheon.

PAINE vs. NEAL.

Hearing resumed at 2 P. M.

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. MALONEY,
MR. BEATTIE.

3276 ALBERT J. SCHWARZLER, a witness called on behalf of Complainant, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your name? A. Albert J. Schwarzler.

Q2. What is your age? A. Thirty-seven.

Q3. And you are a builder engaged in the building business in the Borough of the Bronx, are you not? A. Yes, sir.

Albert J. Schwarzler, for Complainant—Direct. 3277

Q4. And how long have you been engaged in business in that Borough? A. Fifteen years.

Q5. Do you do business individually in your own name? A. In some cases and in some cases not.

Q6. In some cases you might form a company to put up the building? A. A corporation, yes, sir.

Q7. And in some cases you have other people interested with you? A. Yes, sir.

Q8. You are what is known as a speculative builder, are you not? A. Yes, sir. 3278

Q9. That is, you subcontract all your work and build buildings for sale? A. Yes, sir.

Q10. You were conducting certain building operations in November, 1911, were you not? A. Yes, sir.

Q11. Now, just tell me what those building operations were?

Mr. Maloney: I object to anything taking place in 1911 as not pleaded and happening since the commencement of the action, and cannot possibly have any bearing on the issues here. 3279

A. The buildings on the West side of Clay Avenue between 166th and 167th Street, being four buildings, five-story buildings.

Q12. They are tenement houses? A. They are classified as tenements, yes, sir.

Q13. You placed a contract for the wood materials on those buildings with the Hubbell Hardwood Door Company?

Mr. Maloney: Objected to, incompetent, ir-

3280 Albert J. Schwarzler, for Complainant—Direct.

relevant and immaterial; and I want to make the same objection I have made in the past with reference to supplemental matters of fact occurring since the commencement of the action, not pleaded, and in no way brought in by supplemental or other pleading, and as raising a different issue from the one tendered by the pleadings.

A. Yes, sir.

Q14. That contract included the doors, trim and other materials to go into these buildings? A.
3281 Yes, sir, all trim work, including doors, whatever trim may be necessary, classified under trim contract

Q15. The word trim is sometimes used as a general term applying to door, sash, trim and wood materials? A. Yes, sir; all inside woodwork.

Q16. What was approximately the amount of the contract? A. Somewhere in the neighborhood of $5,500 or $5,600.

Q17. And about when was the contract made? A. Some time, I should judge, around September. I would not state positively. Sometimes it is a
3282 month after we give the job that a contract is drawn. We might have the job a month prior to signing contract, or we might sign contract immediately. These things are attended to in the office; we give it to the stenographer and she draws up the contract. Probably some time in September.

Q18. Did you ever have any conversation with anyone representing himself to come from the carpenters' union concerning any materials to be used on those buildings?

3283

Mr. Maloney: Same objection to all this line of testimony and as designed to make out a cause of action not pleaedd, and where none existed at the time of the commencement of the action.

A. Yes, sir.

Q19. With whom did you first have any conversation? A. The first conversation I had was outside of my office, with Wallace Anderson.

Q20. How long ago was that? A. I think some time in September, around September or October.

3284

Q21. Had you ever met Anderson prior to that? A. I had met Anderson probably six months prior to the meeting at this time. He was introduced to me by a carpenters' delegate whom I knew fairly well, Mr. Dalton, he introduced Mr. Anderson as the walking delegate of the carpenters' union.

Q22. Then this first conversation or the first time that you met Anderson was eight or nine months ago? A. I should judge, yes, eight or nine months ago.

3285

Mr. Maloney: That is nearly a year ago, six months prior to September.

A. No, six months prior to November. I might have met him a year ago. Let it go at that. I make no special note of the dates when I meet delegates. We meet them off and on every day. I would not make a special note of it.

Q23. Do you remember any particular conversation which took place at the time you met Dalton and Anderson? A. No conversation whatever took place, except that he introduced Mr.

Anderson as the delegate of the Carpenters' Union. That was all that was said. Simply a friendly greeting as we went along.

Q24. When did you next see Anderson? A. Several times thereafter, on the job which my brother had done on Webster Avenue. I met Anderson the same as I had met any other delegate.

Q25. When did you meet Anderson and have conversation with him concerning the trim to be used on your building on Clay Avenue? A. I
3287 think it was some time in October, around about that time, September or October, I don't exactly know the date. I met Mr. Anderson outside the office. Anderson said "What are you doing about the trim?" I said "I have given the trim out." He said "Who is furnishing it?" I said "The Hubbell Hardwood Door Company." "My," he said, "You are up against it." "How do you make that out?" "The Hubbell is non-union." I said "Mr. Martin, who has taken my contract, said they were union, and took me over to a job which they were doing on Intervale Avenue—it is a junction around there, around Simpson Street
3288 or somewhere there, to show me the qualities of the trim, and I saw all the union carpenters working there." He said "Yes, but you will have trouble on that job." I said "I don't know," and he said "Yes, when they come to hang the doors there will be trouble on the job." I said "I don't know anything about it." He said "You had better see the Hubbel people and try to take the contract away." I said "I will, provided you can furnish me the men who will do the work at the same time, at the same terms, and give me a bond

3289

to do the work." He said "I don't know as we could do that, but you had better see Hubbell." He said "In the meantime, you had better see the District Council," I said. I did not see Anderson then until I met him one day up on a job at Park Avenue, near Wendover. He had another man there and he introduced him as a carpenters' delegate. He said "What have you done about the trim?" "Why," I said, "I have consulted the Hubbell Hardwood Door Company and they said it was union trim and they are going to get me a letter from the District Council 3290 up there stating that they are union." So he said "Oh, well, that won't go."

Q26. Did Anderson, at either of these meetings, state to you who was making the doors to which you referred? A. He said that the doors were made by the Paine Lumber Company, Paine doors.

Q27. Who said that? A. Anderson.

Mr. Maloney—

XQ28. When? A. At the time when he met me up on the Park Avenue job.

XQ29. When was that? A. That was probably 3291 in October, I should judge, October or around that time.

XQ30. 1911? A. 1911. All these dates are 1911.

By Mr. Merritt—

Q31. Now, when did you next see Anderson? A. I next saw Anderson, I should judge, around November, it might have been, or the latter part

of October. I and my brother were going across to the West side job, 159th Street, in an automobile. He said "There's Anderson." So I pulled up and I stoped up. Mr. Anderson was on River Avenue, 161st Street. In the meantime, we had procured this letter from the union. So I said "Anderson, I have got that letter from the local up at New Rochelle, stating that the Hubbell Hardwood Door Company is union." He said "Have you?" I said "Yes." He said "That won't do any good. Hubbell has been down several times to the District Council trying to fix things up, but he has not been able to fix it up. He wants to fix it up so that he can use the doors he has in stock and we wouldn't stand for that, wouldn't allow him to use any of those doors in New York." So he said:

3293

Mr. Maloney—

XQ32. Are you using your own language now, or the other man's language exactly as it took place? A. I would not say exactly as it took place, but I remember——

XQ33. But it is very important to know if it is the exact language. A. I remember exactly what was said, in regard to what was said, but if it is the exact language, I would not say.

3294

By Mr. Merritt—

Q34. Was there any mention made of the Paine Lumber Company at this time? A. Simply he was handling the Paine doors. He said that he was to report back. That the Hubbell Hardwood Door Company was to bring back an account of

how many doors they had in stock—to that effect. That he had a great quantity of doors—I don't exactly remember the number he said—and that they would not sanction the use of those doors in the City of New York. 3295

Q35. Who was to report back? A. Mr. Hubbell, of the Hubbell Hardwood Door Co., was to report back to the union which he was down to see.

Q36. As to how many—— A. Doors the Hubbell had in stock. And stated that Mr. Hubbell was willing to get on the fair list, provided he gave him a chance to use those doors up. 3296

Q37. Referring only to the Paine doors? A. The Paine doors.

Q38. Is that all you recall now that Anderson said at those interviews? A. Well, I told him that I believed there was an injunction against the Paine Lumber Company doors. He said "Supposing there is, we don't have to hang them if we don't want to."

Q39. Do you recall anything else? A. Not just that I remember now.

Q40. Did he state to you at any of these times that you were going to have trouble on that account? A. Oh, yes, he told me that the first time he met me. He told me that all the way through. Every time he met me he told me that I would have trouble. 3297

Q41. Did you have any trouble in the sense of the carpenters quitting work on this job? A. Since the trim was delivered or since they went back to work?

Q42. At any time in this period that you are testifying about? A. Oh, yes, after the trim was

3298 Albert J. Schwarzler, for Complainant—Direct.

delivered, I should judge about December 5th or 6th, the trim arrived on the job, on December 5th or 6th I notified the Hubbell Trim & Door Company; we notified them a couple of days in advance, for them to varnish it and fill it—I think some time around December the 5th or 6th, some date around there.

Q43. Are you sure of that month? A. Oh, no, November; November.

Q44. Well, what do you know about what happened? A. The trim started to arrive there and
3299 I notified the caprenter to start in to work, so he started about November 13th, I should judge.

Q45. When you say you notified the carpenter, you mean the master carpenter? A. The boss carpenter. So he started in November 13th. Started to put up the trim. He worked that day until half-past four and about half-past four I heard that the job had stopped, through my superintendent. So I went down to the job and had the carpenters come up, and I said "What's the trouble?" They said "The delegate came in and said the trim was non-union." I said "I have got a letter here from the local of the union of New
3300 Rochelle, stating that the Hubbell Hardwood Door Company is strictly union."

Q46. I show you a letter and ask you if this is the letter which you refer to? A. (Examining the letter.) This is the letter, yes.

Mr. Maloney: I object to all this line of evidence on the ground hereinbefore stated and upon the ground that it is an attempt to create a cause of action where none existed, by endeavoring to show a case made out of an attempted interference with one of the com-

plainants' business, entirely unwarranted by the pleadings, and apparently prepared since the case was commenced, and as incompetent, irrelevant and hearsay.

Q47. And how did this letter come into your possession? A. I have stated previously that Mr. Anderson stated that the work was non-union. I wrote or telephoned to Mr. Hubbell—I would not state for sure—about the matter, and he said "I will get you a letter from the union showing that our job is strictly union," and this is the 3302
one he sent me.

Mr. Merrit: I will ask to have the letter marked Comp. Ex. 32 for Identification.

Q48. You said your superintendent informed you that the men had quit work. Did you have any talk with any of the carpenters after the superintendent so informed you? A. Yes, with a carpenter, Sam Stern, and one of the boss carpenters, and I showed them this letter. Sam Stern wanted the letter. He said "We have got to report down to headquarters to-morrow morning," and he asked me to let him have this letter to take it down 3303.
to show it to Anderson. I said "No, I won't give it to you, but I will give it to the boss carpenter." I understand that the boss carpenter gave it to Stern to take down and he took it down and showed the letter to Anderson and several of the men who were down there representing the union, and Anderson said that the letter was forged, and to that effect.

Q49. Now, did you have any talk with the men who quit work? A. When they came back that

day—I sent for them—the day after—November 15th, I guess—the day after the job was stopped, Sam Stern came up and brought the letter back to me and told me what they had said. So I sent for all the men to come up to the office and I started to draw up a sort of statement.

Q50. What do you mean by statement? A. A statement stating what had transpired on the job, that they had worked on the job, and that they were called off and authorized to report back to the union next morning, not to go to work until
3303 they were notified.

Q51. How did you prepare this statement? A. I sent for them and I had a stenographer take it down, what I said to them.

Q52. You dictated to a stenographer what you wanted taken down? A. Yes, sir.

Q53. What did you do with the statement after it was prepared? A. They agreed to sign it and afterwards they had a talk in German and Jewish, and they consulted Mr. Stern, and they said they would not sign the agreement, but they acknowledged that the statement in that paper was right, but they would not want to sign it.

3304

Mr. Maloney: I move to strike out that testimony as containing statements of conclusions and not what was said, incompetent, irrelevant and immaterial.

Q53. That is what Sam Stern said to you? A. Yes, sir.

Q54. Well, was this statement read to all the men? A. It was read, yes, sir, to all the men that were there and was explained in English and in German, each section as it was read.

Q55. Did you secure the men's names who were present? A. We secured every man's name who was present, had a look at their union cards and got their numbers.

Q56. And you got their names from their cards? A. Took their names from their cards.

Q57. Did you make a list of these? A. Yes, sir.

Q58. And put them on the statement? A. Yes, sir, on the statement, the numbers of the cards.

Q59. Do you recognize that as the statement concerning which you have been testifying? A. (Examining statement.) Yes, sir. 3306

Mr. Merritt: I will offer that in evidence as Comp. Ex. 33.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Mr. Maloney: It is understood that all these objections shall be regarded as having been made also by Mr. Mayer.

Q60. And you testified that the men there present stated that the statement which you read there was true? A. Yes, sir.

Q61. You don't mean to say that you went at each one of them individually? A. We asked each one if they had any corrections to make, and they said no, that the statement was correct. 3307

Q62. Now, Mr. Schwarzler, in your business operations, has it been your practice to employ union carpenters exclusively? A. Yes, sir.

Q63. And why do you employ union carpenters exclusively? A. Because we could not get enough others to do the work without interference of some other trades, they are sort of allied together, and we could not get enough carpenters.

3310 Albert J. Schwarzler, for Complainant—Cross.

Mr. Maloney: I move to strike that out as a sort of conjecture, conclusion of the witness, no facts stated.

Q64. What do you mean by interference of other trades? A. If we had non-union carpenters, they would call out the plumbers or some other trades that were allied with them.

Mr. Maloney: Same motion; statements of conjectures, conclusions, speculations.

3311 Q65. And those are the reasons why you refuse to employ non-union carpenters as a rule? A. Well, it is not just the reason, but we can get better satisfaction by employing them, we don't have any trouble, that's the idea.

Q66. What do you mean by trouble—trouble of the kind you stated? A. We could get forty union carpenters before we could get one non-union carpenter.

Cross-Examination by Mr. Beattie—

XQ67. I show you Comp. Ex. 32 for Id., and
3312 ask you if that is not headed "New Rochelle District Council?" A. Yes, sir.

XQ68. And the names signed there purport to be officers of that District Council, don't they? A. Yes, sir.

XQ69. Don't you know that the District Council was out of existence at the time that that paper bears date, and when it was handed to you? A. No, sir.

XQ70. You did not learn that? A. No, sir. I don't know it to-day, yet.

XQ71. Didn't Anderson tell you that there was no such a thing as a District Council at New Rochelle at that time? A. Anderson never saw this, through me.

XQ73. Who did you show it to? A. I gave it to Mr. Stern.

XQ74. Who did he give it to? A. He said he showed it to Mr. Anderson and several of the members of the union.

XQ75. Did Mr. Stern tell you that that District Council and for a good while before that, had been out of existence? A. No, sir. 3314

XQ76. He did not tell you that? A. No, sir.

XQ77. Didn't you make any efforts to understand whether that was an authentic document? A. No, sir.

XQ78. You did not make any effort? A. No, sir.

XQ79. In spite of having that document, you say that Mr. Hubbell said that he would arrange his mill so that it would get on the fair list? A. I did not say Mr. Hubbell said that to me.

XQ80. Who said that? A. I said Mr. Anderson said he was trying to arrange to get his mill on the fair list. Mr. Anderson told me this, that 3315 Hubbell was trying.

XQ81. Did Mr. Anderson tell you, or Mr. Hubbell tell you, that he was having negotiations with the union to sign any union agreement? A. No, sir; never had any conversation with Mr. Hubbell up to the time of the trouble in regard to this, at all.

XQ82. Well, after the trouble? A. After the trouble, I asked Mr. Hubbell if he was down there and he said yes, he was down there, trying to

patch things up to use the doors.

XQ83. Didn't he tell you that he had been negotiating with the union of carpenters? A. Yes, sir; he did tell me after this trouble.

XQ84. In connection with him signing a union agreement from May, 1911, up until the date of this strike? A. No, he did not specify any dates at all.

XQ85. You knew it had been going on for several months? A. I knew he was trying to patch up, from what Anderson told me.

3317 XQ86. Then you knew from that, that Mr. Hubbell's concern was not union? A. That was long after I had given Mr. Hubbell the job.

XQ87. Then you knew then that Mr. Hubbell's concern was not union? A. I did not know anything about it. When he furnished me this, I thought it was union, and I believe so to-day, as far as I personally know.

XQ88. Did you believe him when he told you that he was negotiating to make a union agreement? A. He said his shop was union, and that he was trying to make an agreement whereby he could use the doors in stock. He does not say to-

3318 day that he is non-union, to me.

XQ89. You think he is a union concern selling non-union doors? A. I don't know whether you would call them non-union doors or not, but I believe the Paine doors are considered non-union.

XQ90. Then you understood that he was a union shop? A. Yes, sir.

XQ91. And that he was handling non-union goods? A. No, I did not understand he was handling non-union goods.

XQ92. You understand the Paine doors are non-

union? A. Since this trouble I have learned all these things, yes sir; but not prior to the trouble, I did not know anything about it.

XQ93. Did you draw up this statement, Ex. 33? A. Yes.

XQ94. Who told you to draw up this statement, Exhibit 34? A. Nobody but myself.

XQ95. Did you see any lawyer before you drew that up? A. No, sir.

XQ96. When you drew it up, what did you do with it? A. What did I do with it?

XQ97. Yes. A. I kept it in the office for several 3320
days.

XQ98. Then what did you do with it? A. Then I consulted Mr. Merritt in regard to it.

XQ99. How did you come to consult Mr. Merritt? A. I understood from the papers that Mr. Merritt was handling the Paine doors, looking after the Paine interests.

XQ100. What papers? A. I knew there was an injunction about these doors.

XQ101. What paper told you that Mr. Merritt was interested in this thing? A. What papers?

XQ102. You said you found out from the papers. A. Newspapers. 3321

XQ103. What newspapers? A. Cross, Austin & Ireland, who were supplying me with timber, mailed me a copy of the decision rendered by the court in regard to the doors when this decision was rendered.

XQ104. What did they have to do with Paine doors? A. I believe they are a member of an Association that is fighting this union business on the trim end of it. I believe every builder in the city got a copy of it.

3322 XQ105. You understand that Cross, Austin & Ireland are members of an association that is fighting labor unions?

Mr. Merritt: I object to that as incompetent, irrelevant and immaterial, and as hearsay evidence, because it is simply calling for the witness's understanding about a matter about which it does not appear he has any knowledge.

A. I do not.

3323 XQ106. Didn't you just say that a minute ago, when Mr. Merritt interposed here and prompted you so you would not say it again? A. Not that I know of.

XQ107. You did not say that a few minutes ago? A. She can read what I did say. Please read what I did say.

XQ108. Do you want to correct what you did say? A. I don't want to correct anything until I know what I did say.

A. read: "I believe they are a member of an association that is fighting this union business on the trim end of it."

3324

XQ109. On what did you base your belief that they were members of an association fighting this trim business?

Mr. Merritt: Same objection.

A. Because they are delivering trim in Brooklyn and New York and I know they are non-union trim.

XQ110. On what did you base your belief that

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they are a member of an association fighting this trim business? Who told you that? A. Who told me?

XQ111. Yes. A. The paper they sent me gave me, I believe, that knowledge.

By Mr. Maloney—

XQ112. Where is the paper? A. I don't know where it is now.

By Mr. Beattie—

3326

XQ113. You mean the injunction? A. Yes, sir.

XQ114. That had in it that Cross, Austin & Ireland were members—— A. No, I did not say that it had that in.

XQ115. You did not say that? A. No, sir. This paper was mailed through Cross, Austin & Ireland's firm.

XQ116. Who told you about it? Is that the only information you got about this association fighting union labor? A. Is that the only information I got?

XQ117. Yes. A. No; I have got a lot of other information.

3327

XQ118. Tell us about the other information?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial.

A. I know that most all of Brooklyn is fighting this thing, people in Brooklyn are fighting this thing.

XQ119. Who else is in this association that is fighting union labor? A. I don't know who is in it.

XQ120. Did you know there are a number of them in it? A. I know there are a number of them in it.

XQ121. Are you in it? A. I object to answer.

Mr. Merritt: Let us find out what association you are talking about.

XQ122. Why do you object to answer? A. I don't think it is necessary.

XQ123. Is that the only reason why you don't answer? A. No, I don't think it is necessary for me to give any information as to what I belong.

Mr. Merritt: Will you kindly tell the witness what association you are referring to, so that he can form some idea as to what the question relates to?

XQ124. What association is it that you refuse to tell us you are a member of? A. I don't know which association you are referring to.

XQ125. How many of them are you in? A. In what?

XQ126. In associations fighting the carpenters? A. I am in several associations. I am not in any association fighting carpenters.

XQ127. When you refuse to answer the questions, why do you refuse? A. I refuse to answer any question which does not give me in detail what you want to know.

XQ128. I want to know if you are a member of some association with Cross, Austin & Ireland and these other Brooklyn concerns you spoke of which are fighting union labor? A. I don't know what association you refer to.

XQ129. Well, what did you refer to? What association did you refer to? A. I did not refer to any special association; I suppose there are several associations that are against this trim combination.

XQ130. Isn't the name of that association the American Anti-Boycott Association? A. It might be.

XQ131. Isn't that the name you had in mind? A. It was the name I had in mind, yes, sir.

XQ132. Are you a member of that association? A. I refuse to answer. 3332

Mr. Merritt: As far as I have any control over the witness, I wish he would answer.

By Mr. Maloney—

XQ133. Do you refuse on the ground that it might incriminate you?

By Mr. Beattie—

XQ134. Are you a member of that association? A. Yes, sir, I am a member.

XQ135. When did you become a member? A. About nine months ago, I should judge. 3333

XQ136. Have you attended any meetings? A. Never attended any meeting.

Mr. Merritt: I want to record an objection to all this line of testimony, as incompetent, irrelevant and immaterial, and having no bearing upon the issues in this action, and I assume counsel will assent to this objection going to this entire line of examination, without my repeating it?

Mr. Maloney: Yes, that's all right.

XQ137. What did you join that association for? A. For the benefits of my business.

XQ138. What benefits have you got? A. Well, there are numerous things.

XQ139. Do you mind mentioning a few of the most important? A. That I would be able to buy trim wherever I liked, not having a list sent me in advance stating where I have got to buy the trim or else the carpenters won't work for me.

3335 XQ140. Have you got that advantage now? A. I don't know that I've got it, but I think I will get it.

XQ141. It is something you anticipate? A. Yes, sir.

XQ142. That one you have not acquired yet? A. No, not yet.

XQ143. Are there any advantages that you have acquired? A. I did not go into it for the sole purpose of advantage, but because I thought the thing was right.

XQ144. What, the association or this fight? A. This association.

3336 XQ145. Well, haven't you got any advantages at all that you can specify? A. No, sir, I haven't got any advantages, never looked for any advantages.

XQ146. Didn't you say a few moments ago that you had got several advantages? I asked you for the most important and you gave one you had not got? A. I haven't got that yet.

XQ147. How much did you pay for what you got up to date? A. What do you mean?

XQ148. How much have you paid the American

Anti-Boycott Association? A. How much have I paid them?

XQ149. Yes. A. I suppose I paid an initiation fee of $50, and I paid my dues of $25.

XQ150. When did you pay these moneys? A. Why, I couldn't tell you just offhand when I paid them, but I could produce the receipts.

XQ151. Approximately? A. As I say, about nine months ago I paid them, I think, $50 for initiation fee.

XQ152. When did you pay them the $25? A. They sent me a notice about dues, about, I should 3338
judge, a month ago, and I paid them a couple of weeks ago, a couple of weeks ago I sent them a check for $25.

XQ153. Who did you make that check payable to? A. I can't just tell you offhand. I don't make out the checks. The girl in the office makes them out. All I do is to sign them.

XQ154. Has it come back? Has it been paid? A. Yes, sir.

XQ155. And in the nine months you have received no notice of any meeting of this association? A. I have received notice of election of officers, but paid no attention to it, did not even—— 3339

XQ156. Election of officers? A. Yes, sir.

XQ157. When did that happen? A. I don't know when it happened, but I have got the notices of them.

XQ158. Who is the president of that association? A. I don't know.

XQ159. Didn't you vote for him? A. No, sir.

XQ160. When did the election take place? A. I don't believe it has taken place yet. I believe the papers are out for the members to vote on.

3340 Albert J. Schwarzler, for Complainant—Cross.

XQ161. Have you got in mind any man that you are going to vote for for president? A. I don't think that that is for me to tell here, for me to tell who I vote for. I think that is one privilege I have got, not to tell who I am going to vote for.

XQ162. Who are the candidates? A. I don't think it is necessary for me to tell that.

Mr. Merritt: I wish you would tell him anything you may know.

3341 A. I can't tell who the candidates are, because I don't know.

Mr. Merritt: I want you to give the people all the testimony you can. I produce him here as a witness and want him to submit himself to cross-examination as far as possible, even though I regard it as improper cross-examination or examination that does not relate to the direct examination.

XQ163. What is it, you don't know who the candidates are? A. There are no special candidates. There is a list sent out with all the names
3342 of members and you can vote for whomever you like, on this list, the same as if there are twenty-five men sent out and you can vote for anyone you want.

XQ164. When is the election going to take place? A. I did not pay much attention. I believe you put a cross alongside of the name or something and mail it back to them, or you write a letter back.

XQ165. But there is no meeting of any sort called by these circulars? A. I don't know.

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XQ166. It is a voting by mail? A. I could not state that, as I did not take much interest in it.

XQ167. You can't say that you have had any notice of a meeting of the association in nine months, can you? A. I can't say I did not, or that I did have any notice.

XQ168. Well, have you voted on any expenditures of money of that association during the nine months? A. I, personally?

XQ169. Yes. A. No, sir.

XQ170. Do you know how much money they have taken in? A. Not personally, no, sir.

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XQ171. Do you know how much salary you are paying the different officers of the association? A. No, sir, I don't personally know, no, sir.

XQ172. You have had no information on that subject? A. I suppose I had the information, but did not go into it.

XQ173. Do you know? A. I don't know.

XQ174. Have you got any circulars, or anything of that sort? A. I might have.

XQ175. You bring them down here at the next hearing, and any other notices of any sort you have got from that association, and those two checks, too. Did you know where those doors

3345

came from on that job you have been testifying about? A. Do I know where they came from?

XQ176. Did you at the time know? A. No, but I kind of knew that they were coming from the Paine Lumber Company.

XQ177. But you had no dealings with the Paine Lumber Company? A. No, sir.

XQ178. You dealt simply with the Hubbell Hardwood Door Company? A. Yes, sir.

XQ179. How did you know that they were from

Paine Lumber Company? A. Because I understood that he was the agent for the Paine doors for this vicinity.

XQ180. Don't he handle any other doors? A. Not that I know of.

XQ181. Doesn't he make doors himself? A. I don't know.

XQ182. Hasn't he a manufactory up there? A. I have never seen his factory.

XQ183. Don't you know he runs one? A. I have never seen it.

3347 XQ184. They might have been made by him, and not by Paine, as far as you know? A. As far as I know.

XQ185. Do you know how Anderson could have said that they were Paine doors? Did he get any information from you on the subject? A. Did he have any information from me?

XQ186. Yes. A. He had no information from me whatever.

XQ187. Because you did not know who made the doors at that time? A. No, sir.

XQ188. Weren't you surprised when he said they were Paine doors? A. No.

3348 XQ189. Didn't you think they had been made by the Hubbell Hardwood Door Company? A. No, sir; there are very few manufacturers of trim making doors in the City of New York, from what I know of the people I have been doing business with.

XQ190. They make trim and not doors, is that it? A. Supposed to.

XQ191. Well, now, being a member of this American Anti-Boycott Association, you said Cross, Austin & Ireland and several Brooklyn

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concerns are also in this association with you, didn't you?

Mr. Merritt: He did not so testify.

Mr. Beatie: I am asking him.

XQ192. You said that Cross, Austin & Ireland and several other Brooklyn concerns were in this association with you and fighting labor? A. I did not say fighting labor, no, sir—trim business.

XQ193. Who else? What do you mean by the trim business? A. The trim business is all inside woodwork. 3350

By Mr. Maloney—

XQ194. When you said "fighting this trim business," you meant to have the quetison of whether the non-union trim could be used by union carpenters, settled, didn't you? A. No, sir. I meant, that I could buy my trim wheresoever I liked, without having the carpenters union mailing me a list of fair and unfair trim.

XQ195. Did you ever get a list of unfair trim? A. No, but I got a list of fair trim.

XQ196. What did you say you got a list of unfair, for? A. I was given to understand, if any of them were not on this list, they were unfair? 3351

XQ197. Who gave you that understanding? A. I have always understood it that way.

XQ198. Do you know how you came to understand that? A. At any time anybody bought from anyone outside of these concerns, there was trouble.

XQ199. Don't you know that there were hundreds of union mills that never appeared on that list? A. I don't know.

XQ200. Did you examine the list to find out? A. No.

XQ201. When did you get the list? A. After we got the plans filed on the job, generally somebody mails us a list.

XQ202. You ask for the list? A. No, I never asked for it.

XQ203. Do you pay any attention to it at all? A. No.

XQ204. You want to buy non-union stuff? A. No, I don't; if I had I would have bought it long
3353 ago. I was given to understand when I gave this contract out, I went out and looked at this job when Mr. Martin took me over and showed me where union men were working on the trim of the Hubbell Door Co., and were union men, and I was given to understand it was to be union trim.

XQ205. And Hubbell or French told you at the same time that Hubbell was negotiating about getting on the fair list? A. No, French never told me anything like that.

XQ206. Anderson? A. Mr. Anderson only appeared on the scene a month, twenty or thirty days, after the job was given out.

3354 XQ207. As a member of the American Anti-Boycott Association, didn't you consider it your duty to get the statements from the men, Complainant's Exhibit 33? A. No, sir.

XQ208. Didn't you get it for use in this fight against the trim business? A. No, sir.

XQ209. What object did you have in taking that statement? A. I generally take a statement of any trouble I have got on the job, if I ever have any trouble.

XQ210. Did you ever have any trouble before?

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A. My brother had some trouble with the bricklayers, yes.

XQ211. Did you? A. No, personally, no, not to amount to anything.

XQ212. Then you never took a statement before from the men about any trouble? A. No, I did not think we needed it before.

XQ213. Didn't you say a minute ago that you had been accustomed to taking statements? A. Any time we need it we take statements.

XQ214. But you never had any trouble to take statements? A. No, not to amount to anything. 3356

XQ215. Why did you take the names of these carpenters with their local numbers and ledger numbers? A. Because I thought I might want to use it.

XQ216. How did you expect to use it? A. Just what we are trying to do now.

Mr. Maloney—

XQ217. The contempt proceedings? A. Yes, sir.

By Mr. Beattie— 3357

XQ218. You intended to bring a contempt proceeding? A. Yes, sir; if I was stopped.

XQ219. And that was your object? A. Yes, sir.

XQ220. And when did you first see a lawyer about it? A. Not for three or four days after.

XQ221. Didn't you notify the American Anti-Boycott Association that you expected this trouble? A. No, sir.

XQ222. Didn't you tell them about it while the trouble was going on? A. No, sir.

XQ223. Can't you give us the date when you first connected with this Anti-Boycott Association? A. No, sir.

XQ224. You can't give that date? A. I will give you the date I mailed the check down; I will bring the check down if that is all that is necessary.

XQ225. Did you send the check at the same time you sent this statement? A. No, sir.

3359 XQ226. Did you ask them to bring contempt proceedings? A. No, sir.

XQ227. What did you do? A. I did not ask them to do anything.

XQ228. Did you birng this statement down yourself to the Ameircan Anti-Boycott Association? A. No, sir; I had nothing to do with bringing this statement down until Mr. Hubbell, or the Paine Lumber Company, I don't know who, Mr. Merritt asked me if I could call to his office to see in regard to the job.

By Mr. Maloney—

3360 XQ229. Hubbell is the agent of the Paine Lumber Company? A. I don't know.

XQ230. You said he was. A. I understand that, but I don't know what he is. It might be right. I don't know anything about it. He goes under the Hubbell Door Company, I don't know who he represents and who he does not.

By Mr. Beattie—

XQ231. Did you send this statement down,

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Complainant's Exhibit 33, or did they ask you for it—I mean down to the American Anti-Boycott Association? A. They asked me to bring down any papers which might pertain to the case, and this is one of the papers that pertained to that case.

XQ232. What other papers did you think they had in mind? A. They wanted me to bring down the contract, give them full details of the case, so that they could handle it.

XQ233. And you made an affidavit in that contempt proceeding, didn't you? A. I believe I did.

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Mr. Beattie—

XQ234. Did you make two affidavits? A. Maybe. If you show me them, I can tell you.

XQ235. You said that you employed union carpenters because other trades would not work if you employed non-union? A. Yes, sir.

XQ236. Have you ever had any such thing happen? A. Yes, sir.

XQ237. When did you employ non-union carpenters? A. Why, we employ non-union carpenters when my brother had trouble with the union bricklayers about six months prior to this.

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XQ238. You had trouble with union bricklayers? A. Yes, sir.

XQ239. And then you put non-union carpenters on, did you? A. Yes, sir; non-union framers, they were, which belong practically to the same association.

XQ240. How do you know? A. Anderson is a delegate for the framers and also for the car-

3364 penters, and I understand from the men it is all one union.

XQ241. And then you put non-union carpenters on? A. Yes.

XQ242. Who quit work there? A. That was all that was needed to top the building off. The stone men would not set the stone.

XQ243. Because what, you had non-union bricklayers? A. Yes, sir; non-union bricklayers and non-union carpenters.

XQ244. They might have been non-union brick-
3365 layers, because these stone men would not lay the stone? A. It might have been.

XQ245. And you had no other instance where you have had trouble with other trades because you employed non-union carpenters except that one instance? A. That's all.

XQ246. And that's an instance where you don't know whether it was the non-union carpenters or the bricklayers? A. No, we could not say that.

XQ247. You are not accustomed, then, to employ union men—— A. Yes, sir; I am accustomed to it, for twenty years employed nothing but union men.

3366 XQ248. How about the non-union bricklayers, is that more than twenty years? A. No, that is only six months ago, I said prior to this time I did not employ them, my brother's job employed them, but I helped him out, I being a bricklayer took charge of the work. I have been in business twenty years and employed nothing else but union labor.

XQ249. Well, in helping your brother out, you did not employ union labor? A. No, sir; I am

3367

telling you. Up to this time, I simply helped him along, I did not employ them, he did.

XQ250. Do you run a separate business yourself from your brother? A. Yes, sir.

XQ251. How many buildings have you built in the past two years, except this one building that you have testified about? A. Thirty.

XQ252. Thirty buildings? A. Yes, sir; probably more.

XQ253. And you have never had any trouble on any of them? A. No, sir; maybe a petty larceny, odds and ends come up, but always straightened

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out.

XQ254. What do you mean? You don't refer to any stealing? A. Yes, sir; sometimes stealing goes on there. There might be a dispute on who is to do the work. If the plumber is to connect the hot water tank to the boiler, or the steamfitters, that's what I mean.

XQ255. You don't have reference to stealing when you speak of petty larceny cases? A. No, sir.

By Mr. Maloney—

3369

XQ256. You mean by that expression, insignificant trouble? A. Yes. If the plumber says he has a right to connect up the heater and the steamfitter says it is in his contract, the same as the tinsmiths and the carpenters are fighting about this trim business.

XQ257. What did you understand about having trouble if you put up non-union trim? A. Having a strike on the job.

XQ258. Trouble doesn't mean anything but that? They don't use any violenceo ranything of

3370 that sort, do they, in connection with trouble? A. Sometimes.

XQ259. Have they, in your experience? A. Not in this case, no; yes, in prior cases they have.

XQ260. Who is using it? A. When we have had the non-union bricklayers, they tried to make all the troube, beating the men, or anything they could, beating them at the station.

XQ261. I am talking about carpenters. A. No, they have not had any violence on this job whatever.

3371 XQ262. Well, carpenters never do resort to any violence? A. Not that I know of.

XQ263. And when they spoke of trouble they meant simply strike and nothing else? A. Yes, sir.

XQ264. How many doors were involved in this buiding that all this troube was about? A. How many doors?

XQ265. Yes. A. I think about twenty doors on a floor—probably fifty,—somewhere in the neighborhood of 200; probably with wardrobes and all, 350 doors—there might be 250 or 350.

XQ266. You mean the wardrobe doors are
3372 Paine doors? A. I don't know what doors they are.

By Mr. Maloney—

XQ267. There were only 40 or 50 that you had trouble about? A. Each apartment has five rooms and bath, which gives it 6 doors to an apartment, and there are about 11 doors on a floor, and 5 times 11 equals 55; and there are 4 times 55 room doors; I don't know whether wardrobe doors are Paine or what they were to be.

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XQ268. But lots of them were hung? A. Not a door hung. This job only worked three-quarters of a day with about ten or eleven carpenters.

XQ269. And were all these doors delivered on the job at the time? A. No doors delivered on the job at the time.

XQ270. The carpenters did not stop work at all, did they? A. Oh, yes, they stopped work.

By Mr. Beattie—

XQ271. How many carpenters did you have? A. I did not have any, personaly, I sublet the contract. 3374

XQ272. You did not have anything to do with the hanging of the doors? A. Oh, yes, I owned the job, and I sublet the contaret to a boss carpenter. I had everything to do with it.

XQ273. He agreed to do all the carpenter work for a certain sum of money? A. Yes.

XQ274. You had nothing to do with hiring the carpenters and paying them? A. No, sir; I paid the boss carpenter and he paid them.

By Mr. Maloney— 3375

XQ275. Who was he? A. Cohen & Naviasky.

X&276. Do you know what wages he paid the men? A. No, sir; I don't know anything about it.

XQ277. Do you ever hire carpenters yourself? A. No, unless I hired one for a day or so, I hired him from the boss carpenter.

XQ278. This information you have given us from the carpenters, and what they do, is derived from this subcontractor that you put on the job?

A. No, from what I know personally. When you run a business you want to attend to it, the same you would your law business.

XQ279. You don't know whether these were union carpenters or not on that job? A. I don't know?

XQ280. Yes. A. They stated they were.

XQ281. That's all you know? They all stated that? A. Yes, sir.

XQ282. Did you see their working cards? A. Yes, sir.

3377 XQ283. Oh, you did? A. Yes, sir.

XQ284. When they were hired, do you know whether this sub-contractor told them that they were expected to work on non-union trim and doors? A. I don't know what he said to them. I don't know anything about it.

XQ285. Did you tell them that? A. How could I tell it. I did not know it was non-union myself, and don't believe it to-day yet.

XQ286. Did you tell them there was any doubt about it? A. How could I tell them that. This letter convinced me——

XQ287. You knew that the Paine doors were
3378 non-union. A. No, I did not know. I knew that there was an injunction granted—restraining the carpenters from interfering; I thought that settled the case, when the injunction was granted.

XQ288. You did not think that made the doors union? A. I thought it settled the dispute, that they could not stop me on the job.

XQ289. Didn't you know that the injunction did not prevent the carpenters from refusing to handle the doors? A. I never went into that.

XQ290. You did not think that if the doors were

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non-union, made in Paine mill, that they would become unionized by going through Hubbell's mill, did you? A. I did not know, in fact, that the doors were to be Paine doors. I did not ask Mr. Hubbell when he took this job. I simply asked Mr. Martin if it was union trim, and he said yes, and I thought if the trim was union, that the doors would be union.

XQ291. You really expected you bought union stuff? A. I did expect it, and I think so to-day.

XQ292. You don't think so to-day after the doors were Paine doors? A. I don't know if they

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are Paine doors or not, I would not know.

XQ293. As I understand it, you had made an agreement with Mr. Martin of the Hubbell Hardwood Door Company to supply you with union trim and doors? A. I did not specify doors. We don't specify in our agreement each separate item, doors or kitchen dressers, but simply trim, and I expected when Mr. Martin of this firm took this job, it was to be union stuff, and he took me over and showed me that union carpenters were working on it.

XQ294. Then you don't think the Hubbell Hard-

3381

wood Door Company treated you right in that regard, do you? A. Why, I don't see that they treated me wrong.

XQ295. If you agreed with them for union material and they gave you partly non-union material, that was not a fair deal, was it? A. I don't know if they did or not.

XQ296. Well, suppose they did give you partly non-union material and partly union, would you consider you were properly treated? A. No, I would not, if I bought one and got something else, I would not think I was properly treated.

3382 Albert J. Schwarzler, for Complainant—Re-direct.

Mr. Maloney—

XQ297. Do you say you have been twenty years in business? A. Yes.

De-direct examination by Mr. Merritt—

RDQ298. Did I understand the witness to testify that his contract specified that this was to be union material? A. No, sir; it did not specify. It was simply a talk we had, the same as we would talk about any trim business. I said, "What is
3383 this trim?" and he said, "strictly union."

RDQ299. There was a written contract? A. Yes, sir.

RDQ300. But it did not specify whether it was to be union or non-union? A. We don't specify, union or non-union in our contracts.

By Mr. Beattie—

XQ301. Did Mr. Martin tell you orally that it was union? A. Yes.

XQ302. And Martin is the head of the Hubbell Hardwood Door Company? A. No, he was only a salesman of the Hubbell Hardwood Company,
3384 and is not connected with them any more.

XQ303. He was then the one you dealt with? A. Yes, sir; he was the one I dealt with. I never met Mr. Hubbell until long after the job was given out.

By Mr. Maloney—

XQ304. Have you been in the building business for twenty years? A. Over twenty.

XQ305. And sometimes you do business in your

name and sometimes in the name of a company? A. Yes, sir.

XQ306. And in what way do you do it now—in the name of a company? A. No, this job is as Albert J. Schwarzler, personally, and the Jeorme Avenue is the same, and the Park Avenue job is Albert J. Schwarzler, personally; 28 houses between 68th and 67th, which are now being erected, is the A. J. Schwartzler Company.

XQ307. Is that th first time you have ever done business in the name of a company? A. No, for the last two or three years, and off and on in the 3386
company's name.

XQ308. You have never had any financial difficulties? A. No, sir.

XQ309. The amount of business you did with the Hubbell Hardwood Door Company was about $55,500 on this Clay Avenue job? A. Yes, sir.

XQ310. Who is Martin, the man that you have been referring to? A. He was the salesman for the Hubbell Hardwood Door Company.

XQ311. Did you know Van Marter? A. I knew of him, but never knew of him connected with the Hubbell Hardwood Door Company.

XQ312. Who is Van Marter? A. Van Marter, I 3387
believe, is the man who is running the mill up there now.

XQ313. The Hubbell Hardwood Door Company, at New Rochelle? A. Yes, sir.

XQ314. Now, Van Marter saw you a number of times before this Clay Avenue job, in September, 1911? A. Yes, sir; he was salesman at that time for William H. Hookey.

XQ315. And what time do you refer to? A. It might have been three years prior to this time.

XQ316. I am speaking of the year 1911? A. Prior to that time.

XQ317. Prior to September, 1911? A. Two years prior I might have seen him.

XQ318. Did you see him in 1911, before September? A. No, sir; not that I know of.

XQ319. At no time? A. No, sir; never knew he was connected with the Hubbell until after Mr. Martin had got the contract.

XQ320. Can you give about the month when you joined the American Anti-Boycott Association?

3389 A. It might be—I can't give you the exact time; no, sir.

XQ321. Was it before or after the injunction was granted in the Paine case? A. How long ago was it since this injunction was granted to the Paine Lumber Company.

XQ322. It was in April, I believe, or May—sometime in May, 1911. A. I don't know if I joined it before, I wouldn't want to state if I joined it before or after, but my recollection is, before.

XQ323. And after you joined it, you received a circular in the mails in the envelope of Cross,

3390 Austin & Ireland relating to the injunction granted in the Paine Lumber Company case?

Mr. Merritt: I want to renew my objection relating to all this testimony in regard to the American Anti-Boycott Association, on the ground that it is incompetent, irrelevant and immaterial.

A. I believe that is right, yes, sir; I would not say it was in the envelope, it was mailed to me

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from or through Cross, Austin & Ireland Company, I believe.

XQ324. It had Cross, Austin & Irealnd's name on the outside of the envelope, did it not? A. I would not say that, even.

XQ325. It was either that or stamped inside with their name, wasn't it? A. It might have been, somewhere, I knew it came through them.

XQ326. And inside was a printed form of the injunction as granted and a circular explaining just what had been met with in that suit, is that right?

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Mr. Merritt: Objected to on the same ground and on the further ground that it is secondary evidence, because calling for the contents of written documents.

A. I could not state exactly what was in it, but something of that substance.

XQ327. And did you read that? A. I might have read part of it. I don't believe I read it all.

XQ328. You got an understanding that an injunction had been issued in this case—the Paine Lumber Company case—enjoining and restraining the carpenters from interfering with the complainants' business or trim? A. Yes, sir.

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XQ329. And you understood from that that it was claimed on the part of the plaintiffs that the carpenters union would not work upon the plaintiffs trim because they said it was non-union trim —that is, the plaintiffs claimed in this particular suit, that the carpenters would not work on their trim because it was non-union trim? A. I don't

know much about that. I never took any interest in looking that up.

XQ330. Didn't you undertsand—— A. I did not know that they manufactured anything but doors, this Paine Lumber Company.

XQ331. When you ordered trim, you included doors? A. Yes, sir.

XQ332. You understood, didn't you, that the complainants claimed to have a grievance against the carpenters, that the carpenters would not put up their trim because they said it was non-union
3395 trim, because the carpenters said it was non-union trim—generally speaking; I am trying to get your understanding of the injunction. A. I am trying to get it through my head what you are trying to get at. The way I understood about the case was, that the Paine Lumber Company was shipping goods into New York which were not union; this injunction was granted restraining the union from interfering with these doors until this injunction was made permanent.

XQ333. Then you understood that the carpenters would not work on what they claimed was non-union trim, and therefore were interfering with
3396 the plaintiffs business, is that right? A. I understood it in that way.

XQ334. Was that circular or printed paper that you got about the injunction along in May or June of 1911, about the time of the injunction? A. I could not say what date it was.

XQ335. It was in the summer? A. I believe it was.

XQ336. At that time, did you have this job in Clay Avenue under way? A. No, sir.

XQ337. It was not yet started? A. No, sir.

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XQ338. When did you start to make your contract with the Hubbell Hardwood Door Company about the Clay Avenue job? A. It might have been some time in August or September, I don't know. They came in the office quite often, and I was kind of holding off to see about the lowest figures I could get for the trim. It was some time in August or September, somewhere around there.

XQ339. And you had your dealings with Martin? A. Martin at all times.

XQ340. Did you see Van Marter at all? A. Never saw Van Marter.

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XQ341. Did you see Hubbell? A. Never saw Hubbell.

XQ342. You wanted to be sure that Martin—that you were getting union trim? A. I did want to be sure.

XQ343. And Martin gave you his assurance that the Hubbell Hardwood Door Company manufactured only union trim? A. Yes, sir.

XQ344. To prove that, he took you over to a job that was going on on Intervale Avenue and showed you their trim and union men working on it? A. Yes, sir.

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XQ345. Can you give us about the time when that was? A. That was the time, whatever the date of his contract would be, or his estimate would be, within a week of that time.

XQ346. At any rate, it would be shortly before you made a contract? A. Yes, sir, before I made the contract. I went over first to look at the job he was doing.

XQ347. When was it you first learned that the Hubbell Hardwood Door Co. were the agents of the Paine Lumber Company? A. Only through what Mr. ——

3400 XQ348. Martin? A. No, not Martin, Martin never spoke to me about it. Until Mr. Anderson, the delegate, met me outside of the office and I told him that I had given the trim to the Hubbell.

XQ349. That was some time earlier than August, wasn't it? A. Oh, no; this was probably some time in September, it was after I had signed the contract, and seen the work done over there, whatever date that contract may be, probably 30 days afterwards, or two weeks, something like
3401 that. We only had the roof on the Clay Avenue buildings.

XQ350. Did you complain to Martin or to Hubbell before the delivery of the trim that you had been imposed upon by their giving you partly non-union made trim, where you had been assured you were to receive only union trim? A. I did not complain to him. I simply either wrote to him or telephoned to him and stated what the conversation between me and Mr. Anderson was, and what Mr. Anderson had said, that the trim I was getting was non-union trim.

XQ351. And was it at that time that Hubbell
3402 gave you his assurance that he was then negotiating with the Joint District Council? A. He said, "Mr. Schwarzler, my shop is unionized, every man in it is union." I said, "Can you get me a letter from your local up there stating that you are a union shop?" He said, "Yes, sir, I will," and in about a week or ten days afterwards I got this letter.

XQ352. When was it that he told you he was carrying on those negotiations with the union in New York to have his shop unionized? A. That was only after the trouble had commenced.

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XQ353. In November? A. That was only after the—after I spoke to him about this letter, about getting this letter. He said, "The only hitch is on the doors, Schwarzler, and I am trying to fix this up now." Hubbell said this. It was either telephone or——

XQ354. And that was at the time you were talking over the telephone to him? A. No, after I got this, he told me that the only trouble—about this time——

XQ355. Wasn't it before you got this letter that he told you the only toruble was about the doors? 3404
A. I never met him until after I got this.

XQ356. Wasn't it at the time, on the telephone, that he told you he would get this letter, but that the only trouble he was having was with the doors? A. No, not at that time. That was only long after Anderson—Anderson met me three times in between the time the job was stopped. Anderson was the one that told me. Hubbell never told me anything prior to the trouble. Anderson told me that Hubbell was around trying to fix the thing up.

XQ357. Can you recall when it was that Anderson first told you that? A. The time he met me up 3405
at 61st Street and River Avenue.

XQ358. Wasn't that shortly after you made the contract? A. No, 30 or 45 days after.

XQ359. You don't recall the date of the contract? A. No, I could not give you that offhand, because sometimes a contract will be laying in the office for months without being signed.

Mr. Merritt: The date of the contract was July 29.

XQ360. How long after the 29th day of July was it that you first saw Anderson? A. Probably thirty days.

XQ361. Around the first of September, then? A. About the first of September, around September.

XQ362. And then Anderson told you that the Hubbell people were negotiating with them to try to fix up the trouble they had about their trim? A. No, he did not, not at that time.

XQ363. When did he tell you that first? A.
3407 He told me that about three weeks before he stopped the job, three or four weeks before, about a week after I got this letter. I met him, and I told him I had the letter.

XQ364. What did Anderson say to you on the first occasion you met him? A. He met me outside the office and said, "What are you doing about the trim, Mr. Schwarzler? Who has got it?" I said, "Hubbell." He said, "You are up against it." I said, "What's the trouble?" He said, "It's non-union trim."

XQ365. That was around the first of September? A. I should so judge, about that time.

3408 XQ366. And how long before you got this letter through Mr. Hubbell (Exhibit 32) was it that you had the talk with Mr. Hubbell? A. Why, it might have been before I had talked with Mr. Hubbell. It might ahve been a week.

XQ367. You talked to Mr. Hubbell about a week before you got this letter? A. It might have been two weeks.

XQ368. Is two weeks the outside, or one week? A. I would not want to state if it is the outside or inside, I could not state.

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XQ369. This letter was dated October 27, 1911; it was not more than three weeks? A. It might have been two or three.

XQ370. Would it be beyond three? A. I would not want to say, it might have been a month.

XQ371. Was it two months before? A. No. It took, I should judge, about a week or ten days before he mailed the letter after I talked with him on the telephone.

XQ372. When you talked with Mr. Hubbell over the telephone, and before you got this letter dated October 27 (Exhibit 32 for Id.), did you tell Mr. Hubbell what Anderson said to you about the first of September, that the trim which you had contracted for with the Hubbell Co. was non-union trim? A. Yes, sir.

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XQ373. Now that was before any of the trim was delivered to your place? A. Yes, sir.

XQ374. And did you understand them, that notwithstanding the fact that this was non-union trim, that the injunction granted in the Paine case would require the carpenters to put the trim up anyway? A. No.

XQ375. Did you think that the carpenters had a right to refuse to work upon the trim? A. Not after I got this letter. What is that question?

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XQ376. Did you think when you heard this statement, that it was non-union trim, from Anderson, that the carpenters would be obliged to put the trim up anyway, because there was an injunction out.

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial, and calling upon the witness to construe the force and effect of the injunction.

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A. I understood from Mr. Anderson that there was no trouble on the trim, that it was on the doors.

XQ377. I am not trying to get Anderson's understanding. A. You are trying to get what I understood.

XQ378. Yes. A. But I can't give you that unless I tell you what I got from Anderson, any more than you can tell what you understood from me unless I tell you.

XQ379. When you found out that it was claimed
3413 by the union that this was non-union trim, and you knew that there was an injunction out in the Paine suit, did you believe or understand that the carpenters would have to put the non-union trim up anyway?

Mr. Merritt: Same objection.

A. I did not understand that they would have to put it up, no.

XQ380. Did you believe that they had a right to refuse to work upon the trim, if they wished to?

Mr. Merritt: Same objection.

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A. They had no right to refuse after I got this letter from the local?

XQ381. I am speaking of the time before the receipt of this letter. You knew it was claimed to be non-union trim at least two months before this letter? A. Yes, sir.

XQ382. It was about two months before this letter that you received that they claimed it was non-union? A. Yes, sir.

XQ383. What was your belief then? A. My be-

lief was, that Mr. Anderson, when he reported back to me—I said, "I will see the Hubbells and see if I can get some arrangement by which they will either withdraw or give me an understanding." Mr. Anderson asked me to see if I could not get them to withdraw——

XQ384. What I want to know, Mr. Schwarzler, is this: When you found out from Anderson that the union claimed that this material which you were purchasing from the Hubbell Co. was non-union trim, did you then believe that the carpenters would be compelled to put up the trim any- 3416
way? A. No, sir; but I believed that——

XQ385. That is all I want to get at, your understanding and your belief. You did believe, however, that whatever complaint there was about the trim, could be adjusted by the Hubbells with the union in New York? A. If there was any.

XQ386. Yes, if there was any trouble. Did you talk with Hubbell over the telephone or personally, between this conversation you had, when he said he would get this letter, and the time you got the letter? A. A telephone conversation.

XQ387. How many telephone conversations did you have? A. One, I believe, in regard to that 3417
letter.

XQ388. Did you have some between that time and the letter? A. Never had any conversations whatever with Hubbell, never knew Hubbell.

XQ389. Did you see Van Marter in the meantime? A. No, sir; never saw Van Marter.

XQ390. Or anyone representing the Hubbells? A. Only Mr. Martin.

XQ391. When did you see Mr. Martin, after September 1st or thereabouts, when Anderson said

3418 the unions claimed it was non-union? A. I think I sent for Mr. Martin to call to see me.

XQ392. Did Martin tell you that they were negotiating with the union to fix up this dispute about their material? A. No.

XQ393. Did he at any time refer to it? A. Why, he said, "Why, there won't be any trouble, you need not worry about it. We finished that job of Mr. Happle's over there. We had a little trouble on the doors, but we fixed that up."

XQ394. With the union? A. With the union.

3419 XQ395. And did he tell you that they would fix up this question about the doors? A. No, he did not.

XQ396. And never at any time told you that they were making efforts to adjust the matter with the union? A. Not until after the trouble had started, I believe.

By Mr. Merritt—

RDQ397. When you say the trouble had started, what do you mean? A. The strike on the job.

3420 *By Mr. Maloney—*

XQ398. How did you first come to go into the American Anti-Boycott Association?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial.

A. At the time we had this strike. My brother had the strike with the bricklayers. I sent one of my brothers down, August F., or he said he would go down, and see these people and see if they would not handle this case against the brick-

layers. The Anti-Boycott Association said, "Well, now, we don't think we would be entitled to handle this case, you not being a member, and we don't think we ought to take you in as a member when you are in trouble. We don't think that's right. We would gladly have you become a member, but wouldn't want you to become a member now because we don't think you are entitled to it. If you should get into any future troubles, labor troubles, or any difficulties in the building trade, we will gladly handle it as a member's business."

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XQ399. And thereupon you joined? A. And thereupon I joined the Association.

XQ400. Did you go down there to see them or their attorney at any time thereafter? A. Never was in their office until I brought this——

XQ401. This statement that has been referred to? A. Yes, sir. Never was in that office before.

XQ402. Was there anyone there to typewrite that statement out? A. Yes, sir.

XQ403. And did you dictate the statement yourself? A. Yes, sir.

XQ404. Had you talked over the telephone with any member of the American Anti-Boycott Association or its attorney before you dictated that statement? A. No, sir.

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XQ405. And no one suggested to you that you get such a statement? A. No, sir.

XQ406. Did you talk with Van Marter before that? A. No, sir.

XQ407. When was it that the strike occurred on your property? A. November 13, 1911.

XQ408. You saw Anderson before that time, didn't you? A. I had seen him several times before that time.

XQ409. I mean between September 1st and the time of the strike. A. Probably three times, I believe two or three times. I might have seen him going along the street or waved to him; if I was going by in a rig or anything, he might salute me, but only talked to him three or four times.

XQ410. Did you ask Hubbell whether the union claimed these doors were non-union? A. No, sir.

XQ411. Did he say anything about what the trouble was about the doors? A. He said they were Paine doors, that is all he said.

3425 XQ412. Hubbell? A. Hubbell did, but that was after the strike had been started.

XQ413. You only had one talk, and that was before the letter? A. That was on the telephone, that was.

XQ414. Did you see him personally afterwards? A. After the trouble started he was down there several times.

XQ415. He didn't tell you that they were Paine doors at the telephone conversation? A. I told Anderson I would get him a letter from the union up there stating that this was a union shop.

XQ416. You told Anderson that? A. Yes, sir;

3426 I told him that.

XQ417. How did you know? A. Mr. Martin told me.

XQ418. That he could get such a letter as that? A. Yes, sir.

XQ419. Did you ask Martin what the trouble was about the doors? A. Yes. When I sent for Martin after Mr. Anderson was over to see me, why he told me yes, there was trouble on that job over there.

XQ420. What did he say the doors were, Paine doors? A. Paine doors.

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XQ421. When you saw Anderson about November 1, didn't you say to Anderson that these were Paine doors that the Hubbell Hardwood Door Company had? A. Yes.

XQ422. Then Anderson told you that you could not fix it, that the matter could not be adjusted with the union so long as the Hubbell Hardwood Door Copany were using Paine doors? A. That it could not be fixed up as long as they wanted to send Paine doors into the City of New York, but they could send them outside.

XQ423. But he was talking about the Hubbell 3428
Hardwood Door Company? A. Yes, sir.

XQ424. That is, the matter between the Hubbell Hardwood Door Co. and the union men, whatever it was, could not be adjusted as long as Hubbell were using Paine doors? A. That is it; yes, sir.

XQ425. Was it at that time that you called Anderson's attention to the fact that there was an injunction out in the Paine case? A. Yes, sir.

XQ426. And what else did you say to him about the injunction? A. What else did I say to him about the injunction? 3429

XQ427. Yes. A. I said there was an injunction. He said, "We don't have to hang them if we don't want to, nothing can compel us." I said, "I don't suppose you can."

XQ428. Did you not tell Anderson that under the injunction they would have to put the doors up? A. I would not swear that I did or did not.

XQ429. You are uncertain as to what you said? A. I am uncertain as regards whether I said they had to hang them or not.

XQ430. You did use words to Mr. Anderson to

3430 give the impression that the carpenters would have to put the doors up under the injunction, didn't you, or that there would be difficulty? A. No, I don't think I did. I gave him to understand that the doors would be hung, that was my impression.

XQ431. Didn't you give them to understand that they would be punished for contempt? A. No, sir; I did not know anything about the contempt proceeding.

XQ432. You know that the suit was being con-
3431 ducted by the American Anti-Boycott Association? A. Yes, sir.

XQ433. You were a member of the American Anti-Boycott Association, and you had an interest in the conduct of the suit, didn't you? A. No, sir.

XQ434. What did you say to him, if anything, about the contempt under the injunction? A. I don't remember that I said anything about contempt.

XQ435. Didn't you say you were going to make use of that injunction, that you would start some proceeding against them? A. I don't remember.

3432 XQ436. Will you swear that you did not say to them that you would start some proceeding against them if they did not stop interfering with those doors on your job? A. I don't beileve I said that; no. What I did say was, that the doors would be hung.

XQ437. Why did you refer to that injuntcion? A. Because Mr. Anderson said that the Hubbell trim could not be used until such time as they agreed to leave the Paine doors out of the city; the conversation I had was between me and Mr. Anderson and my brother here.

XQ438. What did you mention an injunction for? A. About the injunction, I said, "There's an injunction granted against the doors." 3433

XQ439. You did not mean that there was an injunction against the doors, but that there was an injunction preventing the carpenters from interfering with the use of the doors? A. Yes, sir.

XQ440. Why did you refer to the injunction at all to Mr. Anderson? A. Because he told me there was trouble on the doors.

XQ441. Didn't you mean to create the impression in Anderson's mind that the doors would have to be put up or the injunction would be made use of? A. No, sir. 3434

XQ442. Didn't you mean to threaten them by means of the injunction? A. No, sir.

XQ443. How was it material, then? A. Because I knew if they did not hang them, I'd put somebody else to hang them, and there would be trouble.

XQ444. You created that impression in his mind? A. I guess I did.

XQ445. Can you recall what language you used to give Anderson that impression? A. No, sir. 3435

XQ446. You can't recall that language? A. No, the exact language, no.

XQ447. All the language you can recall, is probably what Anderson said to you? A. No, not necessarily, I can recall most everything.

XQ448. Can you recall what you said to him about the use of that injunction? A. I recall, as I told you before, that the doors would be hung.

XQ449. Didn't you make that very plain to Mr. Anderson, that by means of that injunction, those doors would be hung? A. Yes, sir.

XQ450. Can you tell us what language you used to make that plain to Anderson? A. Not just the exact language; no.

XQ451. Can you give us the substance of the language you used? A. I might have said to him that the doors would have to be hung, if anybody interfered there would be trouble.

XQ452. Under the injunction? A. Under the injunction; yes, sir.

XQ453. Did you use the word "contempt"? That proceedings for contempt would be started
3437 against him? A. No; I don't think I did.

XQ454. Did you tell him that they would be put in jail? A. Not at this time that I met him.

XQ455. When did you say this? You did say it? A. The morning I got him on the telephone in the union I might have said it.

XQ456. You did say it at some time, that you would have him put in jail under that injunction? A. No; I don't think I did.

XQ457. Didn't you tell him you would have him put in jail? A. No; I did not.

XQ458. What language did you use? A. I rang him up on the telephone on the day Mr. Stern
3438 came back with the letter, and asked what the trouble was. I said, "I'll tell you, Anderson, you will come and see me before I come to see you."

XQ459. You made it plain to him that he would have to go to jail under that injunction? A. No, sir; I did not.

XQ460. Had you taken legal advice in the meantime? A. No, sir; I had not taken legal advice in the mean time.

XQ461. Did you see any other of the delegates

of the union besides Anderson? A. Did I see any of the others? When do you mean? 3439

XQ462. At the time of this trouble, or before it? A. No, sir. Mr. Anderson, as I stated, met me at the Park Avenue job and introduced me to another man as a representative of the union.

XQ463. Who was it that came up there when the men quit work—what delegate? A. Mr. Anderson.

XQ464. Did you hear what Anderson said to the men? A. No, sir; I was not there.

XQ465. Will you swear that Stern, when he came back, told you that Anderson said this paper (Exhibit 32 for Identification) was a forgery? A. Yes, sir. 3440

XQ466. Was it your brother that went down to the American Anti-Boycott Association, or was it yourself? A. When?

XQ467. When you joined? A. My brother, August F.

XQ468. And it was upon his report to you that you joined? A. Yes, sir.

XQ469. Did he join too? A. I don't know if he joined or not.

XQ470. Are you a firm? A. No, sir. 3441

XQ471. Do you do any work together? A. We are a company and he holds one office in my company.

XQ472. Is it the company who are a member, or you personally? A. I personally; we are all personal members, if there are any organizations.

XQ473. When you found out from Anderson that the trim which you had purchased from the Hubbell Company, or contracted to purchase, was

what the carpenters called non-union trim, why didn't you try to have the matter adjusted with the Hubbell Hardwood Door Company before getting the carpenters on the job? A. Because Mr. Anderson promised to come back and let me know what he could do with the District Council.

XQ474. But he told you as early as November 1st that you could not do anything with the door?s A. He never showed back to tell me what he could do. He was to come and see and I was to go and see.

3443 XQ475. Didn't he tell you that this thing you had up here would be of no use, this letter? A. I did not have that at that time.

XQ475. You had that on November 1st? A. Yes, sir.

XQ477. That was before the strike? A. Yes.

XQ478. Why didn't you then try to adjust the matter with the Hubbell Hardwood Door Company? A. Because I had no need to adjust anything. Mr. Anderson promised to come back and see this. He said, "Can you get it?" And I said, "Yes." And he promised to come back.

XQ479. Did you tell Anderson that you were
3444 getting such a paper as this from a Carpenters Union up in New Rochelle or from the Carpenters Union? A. I told him that I was going to get a letter from the Carpenters Union of New Rochelle stating——

XQ480. Will you swear that you told him New Rochelle? A. Yes, sir.

XQ481. Then on November 1st when you knew that he was claiming that it was non-union trim, why didn't you then try to adjust it with the Hub-

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bells? A. I had no adjustment to make. Mr. Anderson told me they were trying to fix it up.

XQ483. You did know for a month that the union carpenters would not work on what they called non-union trim, didn't you? A. I didn't know that the trim was non-union, and don't believe it to-day.

XQ484. I am assuming that the trim was non-union. You knew that they would not work under their rules on what they called non-union trim? A. I don't know anything about their rules.

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XQ485. You understood that, because you joined the American Anti-Boycott Association to protect you againts such things, didn't you? A. Did I join it for that? No, I——

XQ486. Didn't you testify that one of the reasons why you joined this Association was, that you did not want to have this so-called fair list sent to you, attempting to manage you in the kind of trim you would use? A. Yes.

XQ487. Then you knew the union men would not work on what they claimed was non-union material? A. Yes.

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XQ488. You knew that, then, as early as the time you joined the American Anti-Boycott Association? A. Knew what as early?

XQ489. That these union men would not work on what they knew was non-union material? A. Yes. I did not know that this was non-union material.

XQ490. We will come to that later. And knowing that the union men would not work on non-union material under their rules, whatever they were, you tried to arrange such a contract with Hubbell as would protect you against such a situation? A. No, sir.

XQ491. Didn't you go to the Hubbell Hardwood Door Company and say you wanted union trim? A. I did not; no, sir.

XQ492. Didn't they assure you that you would get nothing but union trim? A. Mr. Martin only assured me that the trim was union, that is, I asked him, "Is the trim union or non-union?" He said, "It is union. Come over and I will show you where I am using it." And I went over with him.

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XQ493. You did not have that as an idle conversation with Martin? You wanted to have union trim, so as to save any trouble at all? A. Yes, we never go into trouble if we can keep away from it.

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XQ494. It was a matter of prudence? A. Yes, sir.

XQ495. And they assured you that it was union? A. Mr. Martin assured me that the trim was union.

XQ496. When you knew afterwards, or learned afterwards, that the carpenters claimed it was non-union trim, whether it was or not, why didn't you try to adjust it with the Hubbell Hardwood Door Company? A. How could I adjust a contract of $5,000, when they bring me a letter stating that they are union?

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XQ497. Why didn't you try? A. I did try. I got this letter for that cause.

XQ498. Did you think it was easier to bring about the completion of your job to threaten these union delegates with contempt proceedings, or criminal proceedings, under this injunction in the Paine Lumber Company case, than it would be to have Hubbell make good their assurance to you?

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A. I did not see any way of making the Hubbell Company make good.

XQ499. And you thought that the only alternative, then, was to proceed under the injunction? A. Just to take steps to get the job completed.

XQ500. You mean, to take proceedings under that injunction? A. Not necessarily.

XQ501. You did not make affidavits and bring down statements and start a proceeding called "Matter of Anderson," a contempt proceeding? A. I did not.

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XQ502. You took part in that proceeding? A. Yes, sir.

XQ503. Didn't you come into court yourself individually, and stand up, and roar out to the Court yourself—— A. No, sir; I did not roar out.

XQ504. Didn't you jump up in court and make a statement to the court yourself? A. Yes, I made a statement to the court myself; yes.

XQ505. And the court ordered the men to go on your job? A. Yes, sir.

XQ506. With the consent of the Carpenters' Counsel? A. Yes, sir.

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XQ507. That was the method that you intended to use against the unions to compel the completion of your jobs? A. No, sir.

XQ508. Didn't you tell Anderson that he would come to see you before you came to see him? A. Yes, sir.

XQ509. What did you have in your mind when you used that expression? That you would use your injunction? A. No, sir. That I would get the job finished and he would come and try to straighten it up. To scab the job.

XQ510. Did you ever have any power over Anderson? A. No, sir.

XQ511. Never, except the injunction? A. No, sir; not even the injunction.

XQ512. You were very careful to mention this injunction in connection with your conversations with Anderson? A. When he started to talk about the doors, that they were Paine doors, I said, "You understand that there's an injunction against these doors, don't you? And if they are going to bring them here, they're going to be used."

3455 XQ513. And then you told him he would come to see you before you came to see him? A. Not at that time.

XQ514. At some time before you instituted this contempt proceeding? A. Yes, sir. The morning I drew this statement up.

XQ515. How long did you spend down in the American Anti-Boycott Association on these contempt papers? A. Probably two hours.

XQ516. On one day only? A. I went down one day and the next day I went down and signed the papers, when they were drawn.

XQ517. Did you have other people from your
3456 office down there? A. Yes, sir.

XQ518. How many? A. I had my brother, Mr. McKenna.

XQ519. You had the stenographer there, too? A. No, sir.

XQ520. Nobody else? A. No, sir.

XQ521. Did you bring down a statement of what the facts were, to the American Anti-Boycott Association? A. I did not bring down any statements whatever; simply came down and told them what the facts were.

XQ522. Did you telephone them or they telephone you before you went down? A. I think I telephoned them.

XQ523. Did you see all the papers in the proceeding before they were signed up? A. Yes, sir.

XQ524. Read them all very carefully? A. As far as my affidavit was concerned, yes, sir.

By Mr. Merritt—

RDQ525. Do you mean that you read all the papers? A. No, sir; only my affidavit papers, only the affidavit you asked me to sign.

By Mr. Maloney—

RDQ526. Did you see Van Marter down there? A. No, sir.

XQ527. Did you see Hubbell there? A. No, sir. Yes, sir; I did see Hubbell there.

XQ528. Did you talk with Hubbell there? A. I think I did.

XQ529. Did you tell Hubbell anything about getting you into this mixup, when he could adjust this matter with you and carry out those assurances to you? A. He never gave me any assurances.

XQ530. Did you attach any value to that assurance? Did you think they were acting in good faith? A. Yes, sir.

XQ531. Then you thought they should take care of you, didn't you? A. The best they could; yes.

XQ532. Why did you allow yourself to become a party to this criminal proceeding against these men, when you knew in advance that these men

had rules under which they would not work under such material? A. What?

XQ533. Why did you become a party to this criminal proceeding against them, if you had the assurance of a reputable concern, which you believed in good faith they meant to carry out? Why did you interest yourself in the criminal proceeding? A. I did not interest myself any more than I should as a private citizen.

XQ534. Weren't you a member of the American Anti-Boycott Associatio?n A. Yes, sir.

3461 XQ535. Wasn't it a part of the policy of the American Anti-Boycott Association, which you knew, to try to compel these carpenters to put up that material whether they wanted to or not? A. I don't know what their intention was.

XQ536. Why did you select a criminal proceeding when you could have had it under your contract?

Mr. Merritt: I object, the witness has already testified it was not in his contract.

A. There is not one contract in my office drawn

3462 that specifies union labor.

XQ537. But you were dealing with a business house that assured you it was union material you were getting? A. Yes, sir.

XQ538. And that was an important consideration with you in making the contract? A. It was; yes, sir.

XQ539. Did you expect them to carry out that assurance? A. I did.

XQ540. Wasn't the real fact that you wanted co[illegible] get one of these men put in jail, so as to settle sta[illegible] question against the carpenters, that they them

TORN PAGE

would have to put up the non-union material whether they wanted to or not? A. No, sir.

XQ541. It was just your own personal wish to complete your job? A. Yes, sir.

XQ542. You thought it was easier to do it in this proceeding than it was to adjust it with the people who gave you the assurance at the time they made the agreement with you? A. How could they adjust it?

XQ543. Did you think it was easier to do it this way? A. Yes, sir.

XQ544. Did you know anything about the standing of the Hubbell Hardwood Door Company when you made the contract with them? A. No, sir. 3464

XQ545. You intended to have a contract with parties who were financially responsible? A. As far as I know; yes, sir.

XQ546. Did you look at their rating? A. No, sir.

XQ547. Did you know how many of these so-called Paine doors they had in their possession? A. No.

XQ548. Did you hear at any time during these proceedings which have been referred to, what amount of these doors they had? A. I believe I heard from Mr. Anderson that they had something like—quite a number of thousand doors on hand. 3465

XQ549. Something like $50,000 worth? A. Mr. Anderson so stated to me.

XQ550. Were you desirous, as a member of the American Anti-Boycott Association, and was it your intention, by taking part in these criminal proceedings, to compel the carpenters to put up

this $50,000 worth of doors which the Hubbell Hardwood Door Co. had? A. No, sir.

XQ551. Were you present at any conversation at any time between Van Marter and the delegates of the union? A. No, sir.

XQ552. Do you know what Van Marter's position is in the Hubbell Hardwood Door Company? A. No, sir.

XQ553. Do you know who it was your brother saw down at the American Anti-Boycott Association? A. I believe he said he saw the Secretary;
3467 I would not say for sure.

XQ554. Where did you get the name of the American Anti-Boycott Association in the first instance? A. I take an interest in reading all the papers relating to the building trades, etc.

XQ555. And does their name appear advertised somewhere in the papers? A. No. I believe—somebody might have told us about it. I don't remember the exact way we got it.

XQ556. Can you remember how it was you first learned about them? A. I only learned through my brother, August F.

XQ557. And he did not tell you how he learned?
3468 A. No, sir.

XQ558. You said that this statement (Comp. Ex. 33) was read in English and explained in German to these men? A. Yes, sir.

XQ559. And that is what you swore to in your affidavit? A. Yes, sir.

XQ560. Did you know that only one or two of these men could speak only a little bit of German, that they were all Hebrews? A. Oh, I know different.

XQ561. You think they were all Germans? A.

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I know that most of them could understand the German language, and practically the English, too.

XQ562. Did you know that they were Hebrews? A. Yes, sir.

XQ563. You knew they spoke the Hebrew language? A. I know that the two are similar, and I can understand the Hebrews and they can understand me, and I am German.

XQ564. You think a person who can speak only the Hebrew language can understand German? A. I don't say that they could only speak the Hebrew.

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XQ565. It is assumed. Do you think that a person who can speak the Hebrew language only, can understand the German language? A. The greater part of it, yes, the Hebrew that these fellows speak; I can go through the building and speak to anyone of them on the job in German, and they will understand me.

XQ566. You did not read this statement to them in Hebrew at any time? A. I could not.

XQ567. Was there anybody there who was a Hebrew who read it in Hebrew? A. No, sir.

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XQ568. Who was the one who read it in German? Was it you? A. No. I did not read it, but explained it in German, each section as it went along.

XQ569. You are not Hebrew? You are a German? A. I am a German.

XQ570. You don't understand the Hebrew language? A. No, sir.

XQ571. Now, when these men told you, as I understood you to testify, that it was all right and correct, and that they wished to make no changes

in it, and each one said so individually, did they say that in German, in Hebrew, or in English? A. Some of them said it in English and some said it in German.

XQ572. Did anyone say it in Hebrew? A. I dont' know; I wouldn't know.

XQ573. You asked each one individually? A. They were all there together and I asked them all individually if they understood it.

XQ574. Did you ask them as a party or did you go to each one in the party and ask him if he
3473 understood it? A. I said, "Is there anyone of you that don't understand it?" I said it in German and English. They all said they understood it.

XQ575. In one voice? A. Yes, altogether. There was no one putting a rising voice against it.

XQ576. You know that those men did not say anything at all, except Stern? A. Oh, I know different. Stern was spokesman, but when it came to them——

XQ577. He was foreman? A. I don't know.

XQ578. In charge of the carpenters? A. I don't know. I was not on the job that day; I
3474 don't know who was foreman.

XQ579. Did you know that this firm of Cohen & Naviasky you knew that they had agreements with the union to work under union conditions? A. I did not; no.

XQ580. Did you inquire of the contractors? A. They did several jobs for me.

XQ581. But you always had union conditions before? A. Yes, and I thought I had them here, and they thought so, too.

XQ582. Yes, we understand that, of course they

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did. We understand that, too. So you did not speak to them about the matter? A. No.

XQ583. Did they come to you and speak about it? A. No.

XQ584. They were sub-contractors under you? A. Yes, they started the trim up when it was ordered.

XQ585. They were the people who were in difficulty in finishing the contract? A. Yes, but nothing to speak of.

XQ586. You wanted a bond from the union that they would complete the job? A. When Mr. Anderson spoke to me about getting Hubbell out, I said, "I am under contract for five thousand some hundred dollars. If you will furnish me a bond and a man that will furnish this stuff on time and at the prices, I will take it away from Hubbell"—to indemnify me against any loss.

3476

J. DeM.——August 8th.

XQ587. The trouble was only about these doors, not about any other part of it? A. I don't know what it was.

XQ588. I understand that Hubbell told you it was only about the doors? A. That was only after the time that the job was stopped. Martin told me that the trouble over on Happle's job on Intervale Avenue was about the doors.

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XQ589. This trouble you had on your job was a very insignificant part of the trim, wasn't it, only the doors? A. But they refused to hang it all.

XQ590. They refused to have anything to do with the doors? A. They only worked half a day. They only worked six or seven hours, and stopped.

XQ591. You mean they had not been working

3478 there at all more than six or seven hours? A. That is all, a day or so.

XQ592. Did you have any part of the trim in the building at all? A. It was all in the building but the doors.

XQ593. None of it was constructed between this six or seven hours work of the carpenters? A. Put up, you mean?

XQ594. Yes. A. No.

XQ595. Did you, after the strike occurred, go to the contractors and tell them that you wanted them to put up union trim and complete their job? A. I sent for them and asked them what they
3479 were going to do. They said, "We can't do anything, Mr. Schwarzler, if we go in and finish your job up, they will take out the rest of our jobs. If we had one job, we could afford to go in and finish your job with non-union men."

XQ596. Didn't they tell you that they employed only union men? A. They did not. They said that if they went in and put up that trim after the delegates had ordered them out, that they would stop all the rest of their work, and they could not afford to have all the rest of the work stopped for my job.

XQ596. That is what Cohen said? A. One of
3480 them. They would come in together.

XQ597. And they would not put it up? A. No.

XQ598. Now, you said that you could get only union men to work, and that is why you employed union men, is that right? A. I could get only union men to work on the job if I wanted to finish the job with union plumbers and the different trades that the contracts were let for.

XQ599. You were asked why you employed

union men, and you said because you could not get non-union men. A. Not enough to do the work in time.

XQ600. Do you mean generally speaking? A. Generally speaking.

XQ601. That you cannot hire non-union men in the City of New York? A. Not enough of them.

XQ602. There are very few non-union men in New York? A. That is right.

XQ603. How do you know that? A. From the trouble we had before and what we know of.

XQ604. Did you ever try to hire non-union carpenters? A. On 168th Street and Webster Avenue, my brother's job. 3482

XQ605. How many did you have there? A. May be eight or nine framers.

XQ606. You had no difficulty in getting the non-union men? A. Oh, yes, we did.

XQ607. Did you advertise for non-union men? A. I believe we did.

XQ608. You had no difficulty in getting the men, but in keeping them on there with union, wasn't that it? A. We didn't have union men there at the time. If they would go to work on there, the union men would meet them and abuse them and everything else, we would have to keep a police force around there. 3483

XQ609. Did you have that trouble with the union carpenters? A. I don't know. We never had trouble before with union carpenters, so we don't know what would happen with them, but we know what did happen with the bricklayers.

XQ610. You want to see the plaintiff succeed in this action, don't you? A. I want to see what?

XQ611. You want to see the plaintiff succeed in this action, don't you? A. I would like to.

XQ612. And you are interested as a member of the American Anti-Boycott Association in seeing that this principle for which they are fighting is confirmed by a decree in their favor? A. No, sir.

XQ613. You have no interest in the principle at all? A. No, sir.

XQ614. Why do you belong? A. Not in this action.

XQ615. Not in this action? A. No, sir. I believe I have got a right to buy my trim wherever
3485 I like.

XQ616. You do have that right? A. No; I do not.

XQ617. Do you believe that the carpenter has a right to work wherever he likes? A. Yes, sir.

XQ618. Why do you try to compel him to work on something he doesn't want to work on? A. I haven't tried to compel him to do anything.

XQ619. Do you believe that by this action, or in a similar action, that the Paine Lumber Company can compel you to buy their material? A. No, sir.

XQ620. But you do believe that the court can
3486 compel a union man to work upon non-union material, whether he wants to or not? A. No, sir.

XQ621. You think that that would be an outrage, do you? A. I don't say what I think about that, whatever. I am not here to pass upon what I think about the courts.

XQ622. When did you get this—from whom did you get this letter from the so-called union in New Rochelle? A. It was mailed to me.

XQ623. With a letter? A. Yes, I believe I got a letter from Mr. Hubbell stating that enclosed is——

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XQ624. Where is the letter? A. I don't know, it may be up in the office.

XQ625. Produce that letter to-morrow. A. If I can find it, I will produce it.

Examination suspended to next hearing. Adjourned to Tuesday, January 9th, 1912, 10:30 A. M., and Wednesday, January 10th, 2 P. M.

PAINE vs NEAL.

Jan 9, 1911, 10.45 a. m.

PRESENT: 3488

THE COMMISSIONER
MR. MERRITT
MR. MALONEY
MR. BEATTIE

OTTO J SCHWARZLER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt—

Q1. What is your full name? A. Otto J. 3489
Schwarzler.

Q2. Your brother is the Albert J Schwarzler who has testified here? A. Yes, sir.

Q3. What is your age? A. Thirty-six.

Q4. And you are engaged in the business of erecting buildings in New York City? A. Yes, sir.

Q5. In the Borough of the Bronx? A. Yes, sir.

Q6. Have your operations been confined largely to the Borough of the Bronx? A. Yes, sir.

3490 Otto J. Schwarzler, for Complainant—Direct.

Q7. How long have you been engaged in that business? A. About fourteen years.

Q7a. I understand you are what is known as a speculative builder? A. Yes, sir.

Q8. And you sometimes do business in your own name and sometimes through companies which you form for a particular building operation? A. Yes, both.

Q9. You heard your brother Albert J. Schwartzler testify at the last hearing concerning a meeting which he had with various carpenters who,
3491 had struck on his buildings, at Clay Avenue, did you not? A. Yes, sir.

Q10. You were present at that meeting, also? A. At the one which was on Clay Avenue, yes.

Q11. And this is the meeting which took place in his office, as I understand it? A. Yes, sir.

Q12. I want you to recount just what took place?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

M.r Maloney: Mr. Mayer also requests me this morning to make the same objection on
3492 his behalf.

A. On November 14, between 10 and 11 o'clock, the carpenters came into my brother's office on Clay Avenue.

Q13. Who else was there when these carpenters came in? A. Why, a party named McKenna, my brother, and the bookkeeper Miss Michaels.

Q14. And yourself? A. Yes, sir; and myself. And they said they were down to the meeting last night and had seen Mr. Anderson and said they were not allowed to go to work on that job, and to

report in the morning at the headquarters; that that job was unfair. 3493

By Mr. Maloney—

XQ15. Did he use the word "unfair"? A. Why, I don't recollect whether he used the word unfair or not, but my brother had this letter of the New Rochelle union to inform the delegates that the trim was union, and that he said that he did not think that letter was right, and that it was a fake letter, and it was gotten up between the foreman and the union. 3494

By Mr. Merritt—

Q16. You are referring to Complainants' Exhibit 32 for Identification? A. I am.

Q17. And who stated that he did not think that the letter was right and was gotten up as a fake letter? A. This letter was given to one of the spokesman, a party named Stern, who handled the letter and brought the letter back.

Q18. And was it Stern who stated this? A. Why yes.

Q19. What did Stern state? A. Stern stated 3495
that they did not recognize this letter, because they thought it was a fake letter, that it was a put-up job between the New Rochelle, the men on the inside at New Rochelle, and the union, and that they were not to go to work until further notice.

Q20. Stern stated that that was what Anderson told him? A. Yes.

Q21. About how many men came into the office at this meeting? A. Oh, I think there were between ten and eleven men.

Q22. Was Stern the only one that did any talking? A. Stern seemed to be the spokesman for the whole crowd.

Q23. Did Stern state whether or not the men desired to go back to work? A. Why, yes, they all were willing to go back to work, but said they could not go back on account of Anderson knocking them off.

Q24. What else took place, Mr. Stern, at this meeting? A. Well, my brother at that time, when they all came in and he got up a sort of a state-
3497 ment regarding the men that wanted to go to work, and took the names of each man and wanted them to sign a paper which he had written out.

Q25. I show you Complainants' Exhibit 33 and ask you if that is the paper to which you refer? A. Yes, that is the paper.

Q26. Now, if you will continue? A. And after he got it all written out and the names of the people from the card and so on, they began whispering between one and another and said they did not care about signing the paper, because they might get into trouble, but what was on there they thought was right. My brother explained it to
3498 them, both in English and in German.

Q27. Does that paper, Exhibit 33 contain the names of each man who was present? A. Yes.

Mr. Maloney: I make the same jboection with reference to this witness's testimony as to the preceding testimony, about supplemental matter, and subsequent to the commencement of the action, etc.

Q28. Do you always employ union carpenters in connection with your building operations? A. I do.

Q29. Why don't you employ non-union ones, as well? A. Well, if we started to employ non-union men, the other unions might go on strike as soon as they found we got non-union men on the job.

Mr. Maloney: I move to strike it out as incompetent, irrelevant and immaterial, conclusion, no facts at all being given.

Cross-examination by Mr. Maloney—

XQ30. You say you always employ union men? A. Yes, sir. 3500

XQ31. You know that union men won't work on non-union material, don't you? A. I know that, yes.

XQ32. Did you tell the union men, then, when they went on the job, that they would be expected to work upon non-union material? A. I did not tell them anything.

XQ33. You intended, then, to deceive them by employing them and having them work upon material which you knew they would not work on according to their rules? A. I did not have any right to tell them what they should do, because I have no interest in the job. 3501

XQ34. Are you only an employee? A. No employee at all.

XQ35. You are an employer? A. Yes.

XQ36. You employ union men? A. I employ union men, but I have not employed anybody on this particular job, because this is not my job; this is my brother's job.

XQ37. You say you always employ union men? A. I do.

XQ38. In other cases what did you do? Did you tell them in these cases that they would be

3502 expected to work upon non-union material? A. No, sir; we always buy union material.

XQ39. Now, in this particular case, you supposed you were purchasing union material, too? A. Yes, sir.

XQ40. And you had been assured by the Hubbell Hardwood Door Company that it was union material? A. My brother was, yes.

XQ41. Did you have any interest in this job? A. No, sir.

XQ42. As a partner or otherwise? A. No, sir.

3503 XQ43. Or as a member of the corporation or as a stockholder in it? A. No, sir.

XQ44. What were you doing at this particular job? Just there by chance? A. Oh, I came there off and on; as I have nothing to do at present, I am not operating anything.

XQ45. When you were here at the time of this incident, you had no business, you just happened to be there, is that it? A. That's it.

XQ46. Your visit at this time, when these difficulties arose with the man on the job, was not one that was planned in advance, was it? A. No, sir; just dropped in, by occasional stopping.

3504 XQ47. Now, as I understand it, when the trouble arose, your brother was prepared for such trouble by this letter to which your attention has been called, from the New Rochelle union? A. Why, no. He was trying to avoid trouble by getting this letter from the New Rochelle union, so that the job would go on.

XQ48. Didn't I understand you to testify that when Anderson came there and this trouble arose, that your brother had this letter? (Ex. 32) A. Yes.

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XQ49. Now, he had this letter prepared to meet just such an emergency as that, did he not? A. Yes, he was informed by Mr. Anderson that the trim he had was non-union trim.

XQ50. That is to say, he had been informed by Mr. Anderson some time prior to that? A. Yes.

XQ51. That if he used Hubbell Hardwood Door material he would be in trouble, because it was non-union trim? A. Yes.

Mr. Merritt: I have not any particular objection to this line of examination, but I shall certainly claim it is incompetent for this man to testify what Mr. Anderson had informed his brother. 3506

Mr. Maloney: I am not trying to bring that out. I want to get out about this letter.

XQ52. At that particular time, before the men were called off, as you say, by Anderson, your brother had this letter from the New Rochelle Council or union, to meet such an emergency? A. Yes.

XQ53. And then when Anderson, or whoever it was came there and spoke to the men, and they left, your brother brought Anderson's attention and the attention of Stern and these other men to this letter? A. Yes. 3507

XQ54. Was Anderson present at that time? A. At what time

XQ55. The time your brother showed this letter? A. Why, Anderson had never seen the letter until——

XQ56. Was Anderson there when you exhibited the letter? A. No.

Mr. Merritt: I object again, unless you are

referring to the meeting at which this man was present.

XQ57. You saw this letter exhibited, didn't you? A. Yes.

XQ58. That is the meeting I am referring to now. You understand me, don't you? A. Yes.

XQ59. At the time this letter from the New Rochelle Council was exhibited to all of these men, at the time you have been referring to in your direct examination, Mr. Anderson was not present, was he? A. He was not present, no.

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XQ60. Now the letter was given to Mr. Stern, wasn't it? A. Yes.

XQ61. And Stern took the letter down and came back and said that he had shown it to Anderson? A. Yes.

XQ62. How long after this—— A. No, excuse me, I think that the letter was given to Mr. Cohen and Naviasky, and they gave it to Stern. I am not quite clear whether Mr. Cohen got the letter or Mr. Stern, but I know that they returned the letter next morning.

XQ63. Were you there when the letter was delivered? A. Yes.

3510

XQ64. To whom was it delivered—when it was given out? A. It is a question, whether it was given out to Mr. Cohen or Mr. Stern. I don't recollect now.

XQ65. Were you there when it was given out? A. Yes.

XQ66. And you don't know to whom it was given? A. No.

XQ67. That is, you can't recall? A. No, I can't recall.

XQ68. Were you there when the letter was brought back? A. I think it was given to Mr. Cohen or the boss carpenter.

XQ69. Were you there when the letter was brought back? A. Yes.

XQ70. And who brought the letter back? A. Mr. Stern brought the letter back.

XQ71. What did Stern do? A. Stern said that he was down to the meeting last night and showed this letter to Mr. Anderson, and Mr. Anderson said they did not recognize this letter, that this was a fake letter, and a put-up job between the 3512 manager of the New Rochelle Hubbell Hardwood Door Co. and the union.

XQ72. Did Mr. tSern report back, did he use the word, that Anderson said that letter was a forgery? A. He said it was a fake letter.

XQ73. He did not use the word forgery at all, did he? A. I don't recollect as he did.

XQ74. But, when Anderson came in, what Anderson stated was, that the trim on the work was non-union, wasn't it? A. That's what they say.

XQ75. But he did not use the word unfair at all? A. Who?

XQ76. Anderson. A. Anderson? I don't know. 3513

XQ77. You saw this written statement which was made out at the time. Does that state the facts? A. It states the fact, that it was non-union trim what they use.

XQ78. This statement is probably better than your recollection on the matter, isn't it? A. Well, I don't know.

XQ79. Does this statement which has been referred to here by you, as made up right at the time, and shown to the men, correctly state what

took place, and what was said at that time? A. Yes.

XQ80. This statement says, and it is printed, in Mr. McKenna's affidavit, and you have said that you have read that affidavit, and it is true, that Mr. Anderson came along and stopped the job, stating that the trim on said work was non-union, is that correct? A. Yes.

XQ81. Why did you use the word, that he said it was unfair? A. Some of the men, when they came in, said that the job was unfair.

3515 XQ82. Some of what men? A. The carpenters that worked on the job.

XQ83. I am talking about Anderson. A. I did not talk to Anderson. Anderson was not present at this meeting.

XQ84. You said that this statement was a correct statement? A. Yes.

XQ85. Now, this statement says that Anderson came along and stopped the work and said that the trim on the work was non-union, is that right? A. He came along and told the men.

XQ86. Did you hear him say that? A. No.

XQ87. You made an affidavit on the 15th day
3516 of November, 1911, in which you say that you have read the affidavit of John J. McKenna, verified the 15th day of November, 1911, and that you are one of the parties mentioned in said affidavit as being present at the meeting which took place in the office of Albert J. Schwarzler, 1150 Clay Avenue, and that the affidavit of McKenna as to the matters which then and there took place, is true; is that correct? A. Yes.

XQ88. In this affidavit he has incorporated this statement, and in that statement it says that Mr.

Anderson came along and stopped the job, stating that the trim on said work was non-union. You did not see Anderson at all, did you? A. I did not see Anderson.

XQ89. Are you a member of the American Anti-Boycott Association? A. Yes.

XQ90. And you have another brother, have you A. Yse.

XQ91. What is his name? A. August F.

XQ92. He is also a member, isn't he? A. I don't think he is.

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Mr. Merritt: I object to this testimony as incompetent, irrelevant and immaterial, and as not cross-examination.

XQ93. Who was the one that went down to see the American Anti-Boycott Association?

Mr. Merritt: I make the same objection to this entire line of examination.

A. August Schwarzler.

XQ94. And was it after he had seen them that you joined? A. Yes. 3519

XQ95. Did you hear your brother testify here at the last hearing? A. Yes.

XQ96. On that subject? A. Yes.

XQ97. And was what he said, your brother August reported to you also?

Mr. Merritt: I object to that as calling upon witness to recall a long examination and testify in blanket form as to a great many things.

A. I recall that you asked him how he came to

join the American Anti-Boycott Association, and he said—I think you asked him did he join the American Anti-Boycott Association for this particular case.

XQ98. No, I am asking you if your brother Albert testified as to what August said when he came back, was what August said to you? A. Oh! At that time, he said that we could join the Anti-Boycott Association, but if we had any trouble at the time being, they could not take it up until we became a member of the asosciation.

3521 XQ99. You heard what your brother said, that August told him when he came back, didn't you—when he testified last time? A. I don't recall everything he said.

XQ100. I don't ask you to recall everything. Is it in substance what your brother told you? A. I don't know.

XQ101. Were you present when August came back? A. No.

XQ102. When did you hear about it? A. Probably the next day.

XQ103. From whom? A. From my brother.

XQ104. Albert? A. Yes.

3522 XQ105. You did not talk with August about it? A. I don't recollect whether I did that day.

XQ106. Did you at any time? A. Oh, yes.

XQ107. And was it after talking with August that you joined this association? A. Why, yes.

XQ108. Did he tell you about its objects and purposes?

Mr. Merritt: Same objection, and on the further ground that the testimony is hearsay.

 3523

A. He told me that it would probably be a good thing to join.

XQ109. Did he tell you about its objects and purposes? A. Why, yes.

XQ110. This man Stern that you saw was one of the journeyman carpenters, wasn't he? A. Yes.

XQ111. And he was the spokesman for the rest of the party? A. Yes.

XQ112. Did you know that all of these working men, these journeymen carpenters, were Hebrews? A. Yes. 3524

XQ113. Why was it, when this statement was read to them in English and explained to them in German, if you thought they did not understand it, why didn't you have it explained to them in Hebrew? A. Because the majority of the Hebrews can understand German.

XQ114. Did you find out from these men whether they could understand German? A. Yes.

XQ115. How did you do that? Did you go and ask them? A. No; because I had the same men working on my previous job.

XQ116. And you found out they understood German? A. Yes. 3525

XQ117. So that you could read this statement to them and they would understand it? A. Yes.

XQ118. Read it in German? A. Yes.

XQ119. Do you speak German? A. Yes.

XQ120. Now, do you say that each one of the men was asked if he understood this statement, and each one individually stated that he did, and that it was correct? A. Why, they were all asked in a group whether they understood it.

XQ121. As a matter of fact, no one spoke at

all except Stern? A. Well, I guess one or two spoke, besides Stern, but I could not say just how many spoke. They all nodded their heads, from what I saw in the group, that they thought it was right.

XQ122. Who was it explained it to them in German? A. My brother.

XQ123. Did he explain it correctly? A. As far as I can see, he did.

XQ124. Did you have a copy of your statement in your hand at the time? A. No, sir.

3527 XQ125. What was it he said to them in German? A. Well, he asked the, if—he read the statement.

XQ126. He read it in English? A. Yes, at first, and after he read it in English, he asked them if they all understood it. That is, he read it in German, so that the others would understand who did not understand it in English.

XQ127. Did he read the whole statement in German, too? A. He explained it to them.

XQ128. After he read it in English, what did he say in German? Translate what he said in German? A. He translated what the statement

3528 read.

XQ129. Will you tell us now—you were there and you understand German—will you tell us what he said to them in German? A. Well, he simply translated the statement and asked——

XQ130. How did you know? You did not have a copy of the statement in your hand? A. No. But he had the statement.

XQ131. Can't you tell me what he said to them in German? A. I can't exactly state the words that he had said at the time in German, but I know that he had——

XQ132. Can you give me the substance of what he said in German? A. He said that Mr. Anderson, the delegate, had come to the job and stopped the job and said that the trim was non-union trim, and that they were to go down to the union next day to report to the union.

XQ133. Is that all he said? A. Yes, as far as I can recollect.

XQ134. Did you know, or did you have any knowledge, of any facts to lead you to believe, at the time that this trouble took place between the men and your brother on this Clay Avenue job, 3530
that it was part of a scheme on the part of the Hubbell Hardwood Door Company and others to entrap the officers of the union into trouble under the injunction that was issued in this case? A. No, sir.

XQ135. The first knowledge you had of this matter at all was the day that you happened by chance to come into your brother's office, is that right? A. Yes.

XQ136. You knew nothing whatever of the matter before that? A. Only what my brother had told me, that Anderson, when he was around and said that the trim was non-union trim. That is 3531
what I knew.

XQ137. You only knew that your brother told you that Anderson had been there? A. Yes.

XQ138. But outside of that, you know nothing? A. Nothing.

XQ139. And you never talked to your brother further about it? A. No.

XQ140. You did not talk about going down to the American Anti-Boycott Association about it? A. Not at that time, because we did not know

whether the trim was union or non-union. We did not know.

XQ141. You had no interest in the matter at all? A. No.

XQ142. But he at a later time talked to you about going down to the American Anti-Boycott Association? A. Not until the trouble started.

XQ143. Then what did he say to you about that? A. Well, he said that he did not think that the union had a right to pull this job, because we have got union trim, and he did not see why the
3533 job should be held up.

XQ144. And did he say that he was going down to the American Anti-Boycott Association about it? A. Why, he said he would see them about it.

Mr. Merritt: I object to this evidence as purely hearsay.

XQ145. When did he say that to you, and where? A. That was said up in the office.

XQ146. And was there anyone else present?

Mr. Merrit: Objected to, hearsay, and on the further ground that is is incompetent, irrelevant and immaterial.
3534

A. I don't know as there was.

XQ147. How long was this conversation in which he said he was going down to see the American Anti-Boycott Association about it? A. Oh, I don't remember.

XQ148. Half an hour?

Mr. Merritt: Same objection to this entire line of testimony.

 3535

A. We talked sometimes five or ten minutes on the subject, or probably would not talk anything about it.

XQ149. Did you meet him by appointment to talk about that? A. No.

XQ150. Was your brother August there? A. I don't recollect that he was there at that time.

XQ151. Who drew up this statement that has been referred to? A. Which statement is that?

XQ152. The one that was read in English and explained in German to the carpenters? A. My brother drew it up. 3536

XQ153. How did he draw it up? With a pen? A. No, he had a stenographer there.

XQ154. Dictated it to her? A. Yes.

XQ15. Is she still in his employ? A. Yes.

Re-Direct Examination by Mr. Merritt—

RDQ156. You stated in your affidavit that this statement was read n English and explained in German? Do you mean that this entire statement was explained in German?

Mr. Maloney: He does not say that in his affidavit. He says he has read McKenna's affidavit. 3537

RDQ157. I will change it, then. It is stated in McKenna's affidavit, which you state is true, that this entire statement was read in English and explained in German, is that true? A. Yes.

RDQ158. Is it true that the entire statement was explained in German? A. Yes.

RDQ159. You testified on cross-examination that all you recall that was explained in German was something to the effect that Anderson stated

that the men were to stop work because the job was non-union, and to report down to headquarters? A. Yes.

RDQ160. Do you recall whether or not, when your brother explained this statement in German, whether any reference was made to the letter of the New Rochelle Union (Ex. 32 for Id.)? A. They said in regard to the letter, that the letter was a put-up job.

RDQ161. Did your brother explain that point in German? A. Yes.

3539

By Mr. Maloney: I object to that as calling for a conclusion. "What did your brother say?" is the proper way to find out.

RDQ162. What did your brother say concerning this matter, in German? A. He said he had this letter from the New Rochelle union, and they had seen this letter and taken it down to the union and the union said that this letter was a fake letter and they did not recognize it.

RDQ163. I think you stated that you buy almost entirely union materials? A. Yes.

3540 RDQ164. Why don't you buy non-union material? A. For fear we have trouble.

By Mr. Maloney—

RXQ165. Trouble with whom, the union men? A. The union men.

RXQ166. Well, have you any desire to buy non-union material? A. Why, if we could get them cheaper and would not have any trouble on the jobs, we would.

RXQ167. In that case, you could employ non-union men to put them up, couldn't you? A. Yes.

 3541

By Mr. Merritt—

RDQ168. Didn't you testify that there were certain reasons why you did not employ non-union men? A. Yes. I testified that if we did employ union men and buy non-union trim, or non union material, why, other trades would walk out on us, they would not work on that material.

RDQ169. Didn't you testify as to the reason you would not employ non-union men? A. For fear we have trouble on the job, for the unions would not work. 3542

By Mr. Maloney—

RXQ170. You mean that you think if you employed non-union men of one craft, that union men of other crafts engaged on the same job might not work, is that what you mean? A. Yes. They will not work.

RXQ171. You mean, that is what you think? A. That is what I know.

RXQ172. That is what you know, then; you know they will not work? A. Yes.

RXQ173. And therefore you employ all union men? A. Yes, sir. 3543

RXQ174. And you also buy union material so as to have no trouble? A. Yes, sir.

RXQ175. And it so happened that it was your misfortune that this time you bought what they claimed was non-union material? A. This was not my job.

RXQ176. I mean your brother's job, then? A. we don't know that it's non-union material yet.

RXQ177. "What they claimed" was non-union material, that's what I said? A. Yes.

DARK PAGE BLEED THRU

3544 Otto J. Schwarzler, for Complainant—Re-cross.

RXQ178. If it was non-union material, then you were deceived, or youor brother was deceived, by the Hubbell Hardwood Door Company?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial as to whether his

brother was deceived or not.

A. Of course, we don't know whether or not they deceived us or not. They have not proved anything yet.

3545 *Mr. Beattie—*

RXQ179. How do you know that the other trades won't work with men who are working on non-union material? A. How did I know it?

RXQ180. Yes? A. Why, I have seen it in different cases.

RXQ181. In any cases of your own? A. No.

Mr. Maloney—

RXQ182. Your experience, then, is always limited to some other persons' job that you see? A. Why, regarding the going out on strike where there is non-union material furnished, I have seen

3546 that.

RXQ183. One of your own jobs? A. No.

RXQ184. And your experience seems to be confined to jobs of other peopel, where there has been difficulty? A. Yes, where there has been difficulty.

Subscribed and sworn to before me)
this day of , 1912(

11:35. Adjourned to 2 P. M.

Harry Sachs, for Complainant—Direct. 3547

PAINE vs. NEAL.

January 9th, 1912, hearing resumed at 2 o'clock P. M.

PRESENT:

MR. MERRITT,
MR. BEATTIE,
MR. MALONEY.

HARRY SACHS, a witness called on behalf of the complainants, being duly sworn, testified as follows: 3548

Direct Examination by Mr. Merritt—

Q1. Give your full name? A. Harry Sachs.
Q2. How old are you, please? A. About 28.
Q3. What is your business? A. Painter.
Q4. You are a boss painter? A. Yes, sir.
Q5. And the name of your concern is what? A. Gross and Sachs.
Q6. Where do you reside? A. 1356 Brook Avenue.
Q7. Where is that, in the Bronx? A. Yes, sir. 3549
Q8. Now, in November, 1911, you were doing certain work on buildings on Clay Avenue, between 166th and 167th Streets?

Mr. Maloney: I make the same objection to this testimony relating to matters concerned in November, 1911, and since the commencement of the action as I have made to previous examination along this line; attempting to make out a new cause of action based upon alleged interference with complainants.

A. Yes, sir.

Q9. They were certain buildings that were owned by Albert J. Schwarzler? A. Albert J. Schwarzler.

Q10. Do you remember the day when the carpenters came to work on that building? A. I can't exactly. I generally don't remember exactly the dates. I have them marked in my book when I started the job, but I think it was on the 14th.

Q11. It was in November? A. Yes, in Novem-
3551 ber.

Q12. And how many carpenters came to work there? A. There were about ten or twelve men.

Q13. Did you see a man come on the job and speak to the carpenters? A. No, sir. I saw the man going into the building and afterwards I followed him, and I went up to the carpenters and I saw the man was examining their cards, and I found it was the delegate.

Mr. Maloney: Incompetent, irrelevant, and immaterial.

3552 Q14. He was examining the cards of the carpenters? A. Yes, sir.

Q15. Did you hear this man say anything to the carpenters? A. I heard him tell them that they should report to-morrow morning to the headquarters.

Q16. Did you hear any of the carpenters with whom the man had talked say who the man was? A. Well, afterwards, you know, the carpenters told me that was the delegate, and, of course, I kind of understood it myself.

Q17. Did they state what his name was? A. No, they did not state his name.

Q18. As I understand it, that happened on the same day that the carpenters first came to work? A. Yes, the first day they started to work. They started in at 8 o'clock in the morning and it was about a quarter or twenty minutes after four.

Q19. Did you go to the job the following morning? A. Yes, sir.

Q20. Did you find the carpenters there when you came back? A. Yes, sir. The carpenters were there, and I asked them what was the matter, and they told me that the trim was made by non-union labor. 3554

Q21. Were they working? A. No, sir.

Q22. You saw them there, but they were not doing any work? A. No, sir.

Q23. Do you remember the name of anyone who talked to you? A. The carpenters?

Q24. Yes? A. There was a couple of fellows, Stern and Perlman.

Q25. Could you state whether his name was Poulman? A. Of course, I called him Perlman. Whether it is Perlman or Poulman, I don't know.

Q26. Do you know his first name? A. No, sir. 3555

Q27. You say you talked to a man named Stern? A. That is the first man I knew on the job, because I generally worked with him together. I knew him better than the other fellows. The others I know by sight, but I don't know their names.

Q28. What did Stern say? A. He said they could not handle the job on account of the trim, you know. Because the trim is not made by union labor.

Q29. Did you see any of these men around the

job, later? A. Yes, sir; they came around every morning. You mean the carpenters?

Q30. Yes. But they did not go to work? A. No.

Q31. For how long a period of time did they report back every morning? A. Generally about half-past seven or eight.

Q32. How long did they keep this up? A. For a couple of weeks.

Q33. Did you see Stern there during this period of time? A. Mr. Stern was there as a picket—

3557 two weeks.

Q34. Did he tell you he was a picket? A. Yes, sir.

Q35. You talked with some of these men at various times later than that? A. There were some of them there most of the time.

Q36. And you talked to others at times? A. Yes, different subjects. Not exactly on the carpenters.

Q37. Did any of these men ever state to you whether or not they were receiving strike benefits? A. Stern, I know, received a check for $10 and then I saw another check. I could not state

3558 for what amount it was.

Mr. Maloney: I move to strike it out; in the first place it is hearsay, and nothing to indicate that it was strike money; immaterial.

Q38. What makes you think it was strike money, that it had come from the union? A. Because that is what he said. That they received strike money. I used to be a union man once upon a time myself, and when I used to be on a strike I used to get strike benefit.

John F. Richartz, for Complainant—Direct. 3559

Q39. Did you hear more than one man say that they were receiving strike benefit? A. Well, it must have been.

Q40. Did you hear anyone—— A. Yes, sir; I heard—but——

Q41. You heard it from—— A. From a couple of men, but I couldn't exactly tell you the names.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrelevant and immaterial; hearsay; in no way binding on these defendants; relating to matters subsequent to the commencement of the action; attempting to make out a different cause of action than the one pleaded and alleged in the complaint; not pleaded in any way by any suplemental bill. 3560

No cross-examination.

Subscribed and sworn to before me this day of , 1912

3561

JOHN F. RICHARTZ, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. John F. Richartz.

3562 John F. Richartz, for Complainant—Direct.

Q2. And your age? A. Forty-three.

Q3. You reside in New York City? A. Brooklyn.

Q3a. And you are the local representative or salesman of W. D. Crooks & Sons, one of the plaintiffs? A. In New York, yes, sir.

Q4. Your territory is confined to the City of New York? A. Yes, sir; New York.

Q5. And you sell only doors for them? A. Doors and panel work, transoms, whatever they manufacture.

3563 Q6. You represent some other concerns? A. Yes.

Q7. You sell doors for anyone else? A. Nobody else but Crooks.

Q8. Do you remember when you first represented Crooks in the sale of doors here? A. When I first started, in October, 1907, I think it was.

Q9. And how long have you been engaged in business as a salesman for any other concern, prior to this time? A. Well, I have been selling building material for twelve to fourteen years.

Q10. Twelve to fourteen years prior to 1907? A. No, altogether, up to the present time.

3564 Q11. Have you ever done business with the concern of C. W. Klappert's Sons, Incorporated? A. Yes, sir.

Q12. Have you sold merchandise manufactured by Crooks to them? A. Yes, sir.

Q13. Have you been accustomed in the past to selling them doors manufactured by Crooks for use in the New York market? A. Yes, sir.

Q14. For use on the Island of Manhattan? A. Yes, sir.

Q15. Are you selling them Crooks' doors to-day

for use on the Island of Manhattan? A. No, I can't sell any.

Q16. Have you attempted to sell them doors for use on the Island of Manhattan? A. Yes, sir.

Q17. Has he refused to buy? A. Yes, sir. Claims that he can only buy doors of union make.

Mr. Maloney: I object, as hearsay, irrelevant, incompetent and immaterial, and move to strike it out on these grounds.

Q18. Did he state that to you as his reason for not doing business with you? A. Mr. Alexander, yes, he did, he buys.

Q19. It was Mr. Alexander of that concern who stated this to you? A. Yes, sir; he does the buying for Klappert's Sons, Inc.

Q20. And he was the man who stated this to you? A. Yes, sir.

Q21. How long has C. W. Klappert's Sons been a customer of yours? A. Ever since I have been selling goods.

Q22. And can you tell approximately how much you were selling that concern a year of Crooks' doors? A. That depended greatly on the business they done. I would be one competitor against many other door concerns; if I was low, I would get the work.

Q23. Could you state that you had sold them over $1,000 a year, for the Island of Manhattan? A. I have sold them $1,000, yes, sir; I can state that.

Q24. When was it that this concern first refused to buy Crooks' doors from you for their city busines? A. As near as I can remember, it was about the middle of 1910.

3568 John F. Richartz, for Complainant—Direct.

Q25. And have you ever been able to sell them any doors of the Crooks manufacture since then? A. Not since, no, sir.

Q26. Have you ever done business with the concern of H. W. Palen's Sons? A. Yes, sir.

Q27. They were regular customers of yours, or only occasional customers? A. They were customers.

Q28. Have you sold them merchandise of the Crooks manufacture? A. I have sold them the Crooks manufactures, and other manufactures,
3569 too.

Q29. Are you able to sell them to-day? A. No, sir.

Q30. Have they given you any reasons for refusing to buy the Crooks doors? A. The same reason as Klappert gave me.

Mr. Maloney: I move to strike out the answer, incompetent, irrelevant and immaterial.

Q31. When did they first give you this reason? A. About the middle of 1910.

Q32. Was your business with this concern in
3570 Crooks doors a substantial business? A. A good business with Palen.

Q33. Would it amount to several thousand dollars, at least, a year? A. Easily, yes, sir.

Q34. Who was it of H. W. Palen's Sons told you they could not buy doors because they were non-union? A. Mr. Humphreys.

Q35. Where is the concern of H. W. Palen's Sons located? A. The New York office is 1 Madison Avenue.

Q36. And do they do business in New York

City? A. Yes, sir; all this business is on the Island of Manhattan.

Q37. Where is the concern of C. W. Klappert's located? A. 315 or 317 East 25th Street.

Q38. On the Island of Manhattan? A. Yes, sir.

Q39. Now, I will ask you if you have ever done business with H. H. Voight & Co.? A. Yes, sir.

Q40. Have they been a customer of yours for some time past? A. Yes, sir.

Q41. How long? A. Ever since I have been selling goods.

Q42. That is, referring to you personally? A. 3572
Yes.

Q43. Have you been able to sell them in Manhattan for the concern of W. D. Crooks & Sons? A. Not in Manhattan.

Q44. Have you ever done business with them in the Crooks doors on the Island of Manhattan? A. Yes, sir.

Mr. Maloney: I understood him to say he had not sold them.

Witness: I have done it previous to 1910.

Q45. Then I understand that previous to 1910 3573
you have sold this concern doors of the Crooks manufacture? A. Yes, sir.

Q46. Could you approximate the amount of business which you would do annually with this concern in Crooks doors? A. I would easily sell them a thousand dollars' worth on Manhattan. Mostly their work lies outside, and then they have quite some work in Manhattan.

Q47. Has this concern ever refused to buy these goods for the Island of Manhattan? A. The same reason.

3574

Q48. That is, the concern told you they could not use the Crooks doors because they were non-union? A. Yes.

Q49. Who told you this? A. Mr. Henry W. Voight.

Q50. When did they first tell you this? A. Middle of 1910. Just at the time of the trouble.

Q51. What do you mean by trouble? A. When the unions came right in and told them that they could not use any non-union stuff.

3575

Mr. Maloney: I move to strike it out, conclusion, hearsay, no relevance at all, incompetent, irrelevant and immaterial.

Q52. Do you still do business with this concern for construction work, outside of the Island of Manhattan? A. Yes, sir.

Q53. Do you visit this concern at its office? A. Yes, sir.

Q54. How often? A. Every week or two, once or twice.

Q55. Have they ever given you this reason for not buying your Crooks doors for the Island of Manhattan, more than once? A. Well, they tell me they cannot use my stuff on the Island of Manhattan on account of it being non-union.

3576

Q56. They have told you that at various times? A. I have not anything in Manhattan at present.

Q57. They have told you that at various times? A. They told me that, yes.

Q58. Prior to the middle of 1910 or thereabouts, did any of these concerns concerning whom you have testified, ever raise the question as to whether your goods were union or non-union? A. No.

Q59. Have you ever done business with the con-

cern of Warren E. Green Company? A. Yes, sir.

Q60. Have you ever sold them Crooks doors? A. No, sir; not on the Island of Manhattan.

Q61. Do they do any work on the Island of Manhattan? A. I never furnished them any stuff on the Island of Manhattan.

Q62. Have you ever attempted to furnish them any stuff on the Island of Manhattan? A. I have never known them to have any, mostly all his work is suburban work.

Q63. And they have never refused to buy because the goods were non-union? A. No. 3578

Q64. Have you ever done business with Walter M. Collins? A. Yes, sir.

Q65. Has he been a customer of yours for a number of years? A. He has only been in business for about three years. He has been a customer ever since he has been in business. He was formerly with Warren E. Green.

Q66. Have you ever sold Crooks doors to this concern? A. Yes, sir.

Q67. You sold them Crooks doors for buildings on the Island of Manhattan? A. Yes, sir.

Q68. Do you sell them such doors now? A. I have lost some work on the Island of Manhattan 3579 because they were non-union doors.

Q69. You mean, he has given you that reason for not buying for certain jobs? A. Yes.

Q70. Jacob A. Zimmerman is a customer of yours? A. Yes, sir.

Q71. How long has he been a customer of yours personally? A. About five years.

Q72. Has he ever bought Crooks doors from you? A. Has bought them all along up until the time we could not sell them.

Q73. You mean, up to the middle of 1910? A. Up to the middle of 1910.

Q74. And did he give any reason for—— A. The same reason as the other, on account of being non-union they could not use the doors.

Q75. Have you solicited business from him? A. Yes, sir.

Q76. Could you state whether your business annually in Crooks doors with him amounted to $1,000? A. It would, easily.

Q77. Do you sell any of these concerns other
3581 kinds of material? A. Yes, sir.

Q78. You are doing business with all of them in other materials? A. I am, yes, sir.

Q79. Does that apply to all of them, are you sure? A. Well, outside of Crooks stuff, you mean?

Q80. Yes. A. Well, I mean, when they are in the market for my stuff, whatever I have.

Q81. They are still regular customers of yours in other lines? A. Oh, yes, I am doing business with them, with all the people, I am doing business with them.

Q82. Now, I will ask you if, previous to the middle of 1910, this concern submitted lists to
3582 you for estimates from time to time? A. They wrote me to call or send lists to make estimates, yes, sir.

Q83. Is that true of all these concerns? A. All of these concerns.

Q84. Do they still now write you? A. No, not for doors.

Q85. Have you sold goods to John T. Allen and George Lovett of Brooklyn? A. Yes, sir.

Q86. You sold them Crooks doors? A. Yes, sir.

Q87. Has E. G. Hantsche & Co. and R. H. Casey

& Co. been customers of yours? A. Yes, sir.

Q88. For how long? A. I have been selling Hantsche and Casey for about ten years, at least.

Q89. Have you sold them any goods of the Crooks manufacture? A. No, sir.

Q90. Have they ever given you any reason for refusing to buy? A. For the same reason, on account of non-union goods.

Q91. Whom did you talk with in the concern of E. G. Hantsche & Co.? A. One of the sons, I don't know his initials, the oldest son of the concern. 3584

Q92. And whom did you talk with with the concern of R. H. Casey? A. Casey himself.

Q93. Did you ever solicit business in Crooks doors from James Elgar & Co.? A. Yes, sir.

Q94. Were you succesful? A. No, sir.

Q95. What reason, if any, did they give for refusing to buy? A. Non-union.

Q96. Whom did you talk with? A. Benjamin Elgar, Jr.

Q97. Did you ever solicit business from Hugh Getty, Incorporated? A. Yes, sir.

Q98. In Crooks doors? A. Yes, sir.

Q99. Were you succesful? A. No, for the same 3585 reason, non-union.

Q100. They refused to buy, and gave you that reason for refusing? A. Yes, sir.

Q101. And whom did you talk with? A. Mr. Getty, one of the sons.

Q102. Did you ever solicit business from Charles A. Cowen & Co.? A. Yes.

Q103. And were you able to sell them any Crooks doors? A. No.

Q104. Did they give you any reason? A. The same reason.

3586 John F. Richartz, for Complainant—Direct.

Q105. Did you ever solicit business in Crooks doors from W. E. Smith, Inc.? A. Yes, sir.

Q106. Did they refuse to buy? A. For the same reason, non-union.

Q107. Whom did you talk to? A. Mr. Smith himself.

Q108. Now, I will give you a list of names and ask you if the same thing is true as to each of these names. How about Watt & Sinclair, Inc.? A. The same thing; Mr. Watt I talked to.

Q109. Jennings & Welstead? A. Yes, sir; the
3587 same thing.

Q110. Whom did you see? A. Both of them.

Q111. Leopold Kantor? A. The same thing. I saw his partner, I can't think of his name.

Q112. A. G. Imhof? A. The same thing. I saw Mr. Imhof.

Q113. George L. Hiltl Company? A. The same thing.

Q114. Whom did you see? A. Mr. Hiltl.

Q115. Louis Mader? A. The same thing. I saw Mader himself.

Q116. Jones Construction Company? A. Same thing.

3588 Q117. Who did you see? A. Jones himself.

Q118. Donald Mitchell? A. The same thing; saw Mr. Alexander.

Q119. Edwin Outwater? A. The same thing.

Q120. Edwin Outwater? A. The same thing.

Q121. Whom did you see? A. The young Mr. Outwater, Outwater's son.

Q122. F. T. Nesbit & Co.? A. The same thing; saw Johnson and Nesbit.

Q123. Frank H. Rush? A. Same thing; saw Mr. Rush.

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Q124. John H. Parker? A. Same thing; saw Mr. Griffin.

Q125. Pottier & Stymus Company? A. I can't think of the gentleman's name there who does the buying; he told me the same.

Q126. Howard J. Smith & Son? A. The same thing on Manhattan.

Q127. Did you sell them for other parts of the country? A. For other parts of the country.

Q128. And whom did you talk to there? A. Both the son and the father, Howard, Jr., and Howard, Sr.

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Q129. Have you done business with James MacArthur Company? A. I have tried to do it, yes.

Q130. Does the same thing apply? A. Yes, sir. I have not been able to sell them from the middle of 1910 for the same reason.

Q120a. Whom did you talk to? A. Mr. MacArthur himself.

Q121a. Your concern differs from the other plaintiffs in the fact that you sell directly to the builders and contractors? A. Contractors and builders, yes, sir.

Q122a. And these concerns we have named are all concerns whom you have solicited business from in Crooks doors from time to time? A. Yes, sir.

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Cross-Examination by Mr. Beattie—

XQ123a. Did any of these customers tell you that the reason why they could not buy doors was that they had agreed among themselves only to buy union materials? A. They did not state it that way. They stated that they would not use

3592 John F. Richartz, for Complainant—Cross.

my stuff on account of it being non-union make.

XQ124a. Didn't you know that a large part of these builders that you tried to do business with had agreed among themselves not to buy union material? A. No, sir.

XQ125a. Never heard of the Master Carpenters' Association? A. Yes, I heard of it, and heard it rumored around, a few months afterwards, that that was so; I naturally found out why they would not buy the stuff.

QQ126a. And you found that the members, a
3593 hundred or so of them, the largest builders in Manhattan, had agreed among themselves not to buy non-union stuff? A. I heard that there was an agreement between the unions and the master builders that they would not use any stuff but union make and passed by the unions.

XQ127a. Didn't you know that the master carpenters had agreed among themselves to that? A. I knew that they had agreed with the unions.

XQ129a. Didn't you know they had previously agreed with themselves before agreeing with the unions not to do so? A. No, sir.

XQ129a. You know, anyway, that they had
3594 agreed not to buy non-union stuff? A. That they have got an agreement with the unions, I have understood it.

XQ130. Aside from the agreement with the unions, you know that the hundred or more members of the Master Carpenters' Association have agreed not to buy non-union material such as you make? A. Yes, on the ground that the unions —their agreement with the unions, as I said, that is what they tell me.

XQ131. I am not asking about the agreement

with the unions, I am asking you—don't you know that they have agreed themselves? A. That is what I say.

XQ132. And declared that they won't buy non-union material? A. By agreement with the unions, yes, that is what they told me.

XQ133. Haven't they declared to you over and over again that they will not buy non-union material, a large part of the builders of Manhattan? A. Yes, sir, because the men won't put it up, it is non-union.

XQ134. It is also because they won't buy it to 3596
put it up? A. Because the unions won't let the men put it up, they said to me, that there would be a general strike on the buildings.

XQ135. The unions could not put it up or refuse to put it up if they don't buy it? A. They did not buy it, naturally.

XQ136. Then the agreement not to buy must precede action by the unions not to put it up? A. I can't follow that. I have just told you that they tell me if they buy it and it is non-union stuff, that the men won't put it up.

XQ137. When did you first learn that the master carpenters and the unions had made this agree- 3597
ment? A. About the middle of 1910.

XQ138. You did not know that they had an agreement of the sort long before that? A I only know that they stopped buying my stuff about that time.

XQ139. You mean members of the Master Carpenters' Association? A. Yes, sir; the gentlemen I just gave you the list of.

XQ140. Are those members of the Master Car-

3598 penters' Association? A. I don't know whether all of them are.

XQ141. Do you know any of them are? A. Yes, I guess a few of them are. They used to meet in the building I am in, they used to meet in the Townsend Building.

XQ142. Has there been any boom in business since May, 1911, when you procured an injunction here against interference by the unions with the sale of your goods? A. Has there been any boom in my busines?

3599 XQ143. Yes. A. There has been practically no business going on, as I say, business has been very quiet.

XQ144. Then business has been quiet regardless of any action of the master carpenters or the unions since what time is that in 1910? A. The middle.

XQ145. Yes. A. Well, there has been business going on, but not what should be. I still get lists, that is, they say they would send me lists, but they cannot on account of the unions, so I am locked out.

XQ146. Has trade itself been very dull since 3600 1910 in the City of New York, especially in Manhattan? A. The latter part of 1910 it picked up a little, and then it went back in 1911 and got very slack.

XQ147. Well, trade itself, in building, is very slack now in the City of New York City and has been for a year? A. Has been almost a year, yes, sir.

XQ148. Well, with the slackness of trade during the past year you would naturally expect a slackness in your busines? A. Naturally; but I

would have had busines; but I cannot get it, I am refused business every day.

XQ149. You are refused business by master carpenters who are not members of the Master Carpenters' Association? A. I know I am refused business by Zimmerman——

XQ150. Never mind the names. Has there been any increase of your business since you got an injunction in May last against action by the unions? A. Business has been very slow. They are still afraid to give me lists.

XQ151. I am asking you, has there been any 3602
increase of your business since May last year, when you got an injunction in this case? A. No; business has been very slack, as I say.

XQ152. Has your busines kept decreasing since May of last year in this city? A. Well, it has not decreased, there has not been—as I say, I do not get my lists, I can't find out.

XQ153. You can find out about your own business, can't you? A. Well, I say, they won't give me any lists of doors, how can I find out whether there is any busines?

XQ154. Has your own business increased or de-
creased? A. You mean outside of doors? 3603

XQ155. In any line? A. In any line that I carry?

XQ156. In any line of mill work that Crooks make? A. Crooks only makes doors.

XQ157. Has there been any increase or decrease in your business in the City of New York since you got an injunction in May last? A. I can't find out, because they won't give me any lists for doors. I asked this gentleman if it was my business outside of Crooks, and he said Crooks stuff.

XQ153. We are only referring to Crooks stuff. A. I can't find out, I don't get any lists.

XQ159. How about the City of New York? I ask you, the City of New York? A. I don't get any lists.

XQ160. Then you don't get any lists in any of the Boroughs of New York? A. I do outside of Manhattan, yes.

By Mr. Maloney—

XQ161. Do you do any business at all in Crooks?
3605 A. Outside of Manhattan?

XQ162. Anywhere, in Crooks business? A. Outside of Manhattan I do Crooks work, yes, sir.

XQ163. Are you a member of the Eastern Door Association? A. No, sir.

XQ164. The Veneered Door Association? A. No, sir.

XQ165. Anti-Boycott Association? A. I am Crooks' reprsentative only in New York City. I am a member of none of these.

XQ166. Is Crooks a member of the Veneered Door Association or the Eastern Door, Sash & Blind Association? A. I believe he is; I could
3606 not answer you.

XQ167. Both? A. I could not answer you rightly.

XQ163. And you sell goods on the price list of the Veneered Door Association? A. No, sir.

XQ169. Do you make veneered doors? A. Yes, sir. Mostly my stuff is all detail stuff and comes in drawings, all printed, my stuff is not stock stuff as a rule, my stuff is detail stuff.

XQ170. And it would not come within the lists?

A. Oh, yes, what they call stock stuff, I have some of that, yes, sir. I don't do the figuring at all, I sendthe list direct to Crooks.

XQ171. What lists do you send to Crooks? A. The lists that I recieve from my customers, they make out a list for me.

XQQ172. Don't you submit a price list to them before you get any orders from them? A. No, sir. Mine is different than mill work. Mine is just with the builders, they are all made from drawings and blueprints, all special stuff.

XQ173. Is this firm of Crooks & Sons members 3608
of the American Anti-Boycott Association? A. I could not answer. I am merely their representative, I can't answer that, I don't know, I presume they are, I don't know. I am only their New York representative.

XQ174. Did you ever see the agreement between the master carpenters and the unions? A. No, sir.

XQ175. Did the members of the master carpenters or any of them tell you that they did not want to enter into that agreement? A. What is that?

XQ176. Did the members of the master carpen- 3609
ters or any of them tell you that they did not want to enter into that agreement? A. No, they never talked to me about the agrement at all.

XQ177. Did they tell you that they wished that a clause in the agreement which forbid the use of non-union doors, did not exist? A. They never brought up the agreement at all; they said that they could not use my stuff on account of being non-union.

XQQ178. You made an affidavit in this case, didn't you? A. Yes, sir, I think so.

XQ179. On the 24th of February, 1911? A. Yes, sir.

XQ180. In that affidavit you say: "Said defendant contarctors have told deponent that they did not want to enter into the agreement, Exhibit B, whereby they agreed not to purchase any non-union trim, but that they were obliged to make such an arrangement and agreement with the Carpenters' Union, whereby the uncertainties and losses of strikes on their builders could be avoided through arbitration, and said contractors have
3611 stated that they wished that this clause in agreement, Exhibit B, which forbid the use of non-union doors, did not exist, and that they could purchase doors manufactured by said W. D. Crooks & Sons without fear of further difficulty." How do you explain your previous answers with that affidavit? A. I claim this: That they would not use non-union stuff, that if they did, there would be a strike on the building.

XQ181. You never say that agrement, Exhibit B, at all? A. I had it read to me.

XQ182. But you never had any talk with these Master Carpenters about that agreement at all?
3612 A. Not as I know of; no, sir.

XQ183. You still do business in the City of New York, don't you? A. Yes, sir.

XQ184. For persons other than Crooks? A. Yes, sir.

XQ185. And you sell doors? A. No, sir.

XQ186. You sell no doors at all? A. No, sir.

XQ187. Had you ever sold doors before you sold these of Crooks? A. Yes, sir.

XQ188. Whose? A. Nesbit Company.

XQ189. You sold doors made by them? A. Yes, sir; D. M. Nesbitt Company.

XQ190. Who is this F. D. Nesbit? A. That is Fred Nesbit, he is in the concern.

XQ191. Where are D. M. Nesbit? A. Their factory was in Lewisburg, Pennsylvania.

XQ192. Do you sell doors for them now? A. I don't sell any doors at all, only Crooks.

XQ193. Are you under contrate wth Crooks not to sell anyone's doors but his? A. Yes, sir.

XQ194. Have you done any business for Crooks at all within the City of New York for the last year? A. No, sir.

XQ195. No business with Crooks in the last 3614
year, anywhere in te Chity of New York? A. No Crooks doors.

XQ196. I said the City of New York—the City of New York is more than the Islan dof Manhattan. It includes the boroughs of Queens, Richmond and—— A. Oh, I meant the Borough of Manhattan.

XQ197. Have you sold any doors for Crooks & Sons within the City of New York within the last year? A. I have outside of the Borough of Manhattan.

XQ198. Has that business been as large, or was
it less than it was prior to the time of this alleged 3615
trouble that you refer to? A. There is no trouble outside of the Borough of Manhattan.

XQ199. You know what I am talking about, don't you? The business you did in the last year or so, since 1910? A. It does not affect my business outside of the Borough of Manhattan.

XQ200. Is the business you did for Crooks & Sons in the City of New York since May, 1910, as large as it was prior to May, 1910? A. Well, there was more business prior to 1910 than there

3616 was after 1910. In the Borough of Manhattan I have not done a thing for the last year.

XQ201. You did business for Crooks & Sons in the City of New York, outside of the Island of Manhattan, since the middle of 1910? A. I am doing it now; yes, sir.

XQ202. Did the business which you did from the middle of 1910 to the present time in those parts of the City outside of the Island of Manhattan, equal in volume or value what it was before the middle of 1910 for the same period of time? A.
3617 There has not been so much business going on. I was getting my share of the business going on previous to 1910 as I am now.

XQ203. Do you mean that the business in those same localities is less than it was before, by reason of trade conditions? A. Yes, sir; that is what I mean.

XQ204. Then where you do business for Crooks in New York since the middle of 1910, it has been less in value by reason of trade conditions? A. Outside of the Borough of Manhattan, yes, sir. I have not done anything in the Borough of Manhattan for over a year. I am doing business out-
3618 side.

XQ205. Do you know that the City of New York consists of more than this Island? A. It consists of five boroughs; yes, sir.

XQ206. I mean the city as it is? A. I don't do anything in the Borough of Manhattan; I do outside.

XQ207. Is the business which you did since the middle of 1910 anywhere in the City of New York, less than it was before the middle of 1910, by reason of trade condition?s A. Outside of the Borough of Manhattan; yes, sir.

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XQ208. Can you give us approximately what the difference is? Is it half what it formerly was? A. I should judge so.

XQ209. There has been a considerable depression in this door and trim business in the last year or two, hasn't there, generally? A. I think so; what I know, outside of the Borough of Manhattan, there is no building going on.

XQ210. This concern, Crooks & Sons, began to do business through you for the first time in the Island of Manhattan in or about the month of October, 1907, didn't they? A. Yes, sir. 3620

XQ211. Do you know whether they had ever done business on the Island of Manhattan before that time? A. Yes, sir.

XQ212. Through whom? A. G. W. Crooks used to come to New York himself.

XQ213. And personally solicited business? A. Personally solicited business.

By Mr. Merritt—

RDQ214. They had no resident agent? A. They had no resident agent. 3621

By Mr. Maloney—

XQ215. You have done business on the Island of Manhattan and throughout the City of New York generally for a period of about ten or twelve years? A. Twelve or fourteen years.

XQ216. And has your own business that you have built up been less in the last two years generally than it was before, on account of trade conditions? A. Yes, sir.

XQ217. Do you deal in things other than doors? A. Yes, sir.

XQ218. Sash and trim generally? A. Yes, sir.

XQ219. What other concerns do you represent? A. Do you want to know the names of them?

XQ220. Yes. A. Harris & Kenyon—I have quite some customers for them; practically all those customers that Mr. Merritt read over. Also Nichols & Gross Lumber Company, flooring.

XQ221. Any other concerns? A. That is all.

XQ222. Have you sold material from those concerns during the last two years to any of these firms? A. I am selling maple flooring. I can
3623 come in on that any place, but I can't come in on the trim, consisting of mouldings and stuff—mouldings and base and jambs.

XQ223. Of certain sizes? A. I am furnished with lists on that just the same as I am furnished lists on doors.

XQ224. This agreement that you referred to, covers only certain sizes of trim, over 1⅜? A. No, all kinds; they won't let me in on any kind of trim. You refer to sash?

XQ225. Yes, sash. A. I don't handle sash, it's the sash that is 1⅜.

XQ226. You say that you solicited business
3624 from these various people. When wasit that you first learned from these people that theyhad made such an agreement and would not buy anything but union trim? A. About the middle of 1910, as far as I can remember.

XQ227. And had you gone around to see all of these various customers about that time? A. Yes, sir. I call on them all now on my other stuff, on the flooring.

XQ228. Then you found out from them at that time that they would not purchase anything but union trim? A. Yes, sir.

XQ229. And did you afterwards go to see these same customers to try to sell them trim? A. I never did, because they would not talk to me on trim.

XQ230. Never mind the reasons. You did not go to see them since the middle of 1910? A. Yes. I saw them; I sell them flooring. Yes, sir; I was in there and they told me they were sorry they could not give me any orders on account of the union.

XQ231. Then after the middle of 1910 you did not go to these persons, to solicit orders for this material which they had previously refused to purchase? A. I would go in and talk to them and tell them that things being fixed up, we could come in and sell stuff.

XQ232. Being fixed up in what way? A. That there was a suit on.

XQ233. And that under the injunction in this suit that they could buy? A. That that was so, I thought, yes.

XQ234. And still they refused? A. And still they refused.

XQ235. You did not repeat that very many times with them, did you? A. Every time I would go in their office. Well, not every time, but in the course of conversation. Sometimes men are busy and you can't talk to them, they just say, "I don't want to see you to-day, Richartz." When I had a chance to talk with them, we talked about the situation in the matter.

XQ236. Since April, 1911, or thereabouts, have you asked these various customers to purchase material of the kind which you claim they had previously refused to purchase? A. I told them that

3628 I thought it was being settled up and I could come in very soon. They told me that they could not handle it.

XQ237. I am asking you if you solicited business from them after April, 1911? A. Yes, sir; I did.

XQ238. In the material which they had previously refused to buy from you because, as you say, they told you they could use only union trim? A. Yes, sir; I have.

XQ239. When you told them about this injunc-
3629 tion, didn't they then offer to buy from you? A. They said, "Did you think you could come in, Richardz?" I said, "Yes."

XQ240. Did you tell them you had this injunction? A. They knew it as well as I did.

XQ241. Did you speak of it at all? A. Yes, sir.

XQ242. And then did they still refuse to buy material from you? A. Yes, they were afraid; yes, sir.

XQ243. Did you tell them that under this injunction these union men would have to put the trim up anyway? A. I told them I thought so.
3630 I told them that I thought if we had the work we could settle it up, that the unions would allow them to put it up.

XQ244. You say that when you talked with them they told you they did not buy the material because they wanted only union material, and that they had to take union material because if they did not the men would not put it up? A. Yes, sir.

XQ245. What men were you referring to? A. Their carpenters.

XQ246. Did they tell you that the carpenters

that they employed were union carpenters? A. They never told me, but I suppose they were, or they would not be on the job working.

XQ247. Why? A. Because there is nothing but union men are allowed to work.

XQ248. By whom? A. By all the union mills around, nothing but union men.

XQ249. There is nobody here that controls the carpenters, is there? A. They led me to understand that all the men they employed are union men.

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XQ250. Why didn't you tell them to employ non-union men? A. I can't tell them their business.

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XQ251. Well, then, was your object to compel them to purchase the material anyway and have the union men put it up? A. I tried to sell them the stuff and their excuse was that they could not buy it because the men would not put it up on account of being non-union made.

XQ252. Was your understanding that you could compel the union men to put up the non-union material? A. Oh, no; I did not understand it that way.

XQ253. Did you believe that these men gave you honest reasons for their refusal to buy the material? A. I have no other reason to believe but what they told me was right.

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XQ254. Were they buying material right along afterwards from other persons? A. They were buying from union mills; yes, sir.

XQ255. Mills recognized as union establishments? A. Yes, sir.

XQ256. Where union conditions prevailed? A. Union conditions; yes, sir.

XQ257. Did you on behalf of Crooks endeavor to ascertain what those conditions were, to see if you could comply with those conditions and get the business? A. No, sir.

XQ258. Why? A. That is up to Crooks, that's not up to me. I merely went there as their representative.

XQ259. Did you report to Crooks? A. I told Crooks we could not get stuff in on account of being non-union.

XQ260. Didn't Crooks ask you to find out what
3635 the union conditions were, so that he could get the business? A. No, sir.

XQ261. You did not want to bid for the union business? A. I had nothing to do with it.

XQ262. Crooks did not want to bid for the union business? A. I did not know Crooks' business.

XQ263. You did not want to enter into competition at all with the other union mills? A. I was abiding by Crooks.

XQ264. What did Crooks say to you about it? A. Crooks did not say anything to me except that he could not come in on the market, it not being
3636 union.

XQ265. In other words, he was refusing to compete with the union mills? A. I guess so; yes, sir.

XQ266. Crooks' business in doors in the Island of Manhattan since 1907 was comparatively small anyway, wasn't it? A. Since 1907?

XQ267. Since you became his representative? A. Small, since I became his representative?

XQ268. No, I say, his business in New York from October, 1907, when you became his resident

agent here, was comparatively small anyway, wasn't it, his business in doors? A. We were building up a very nice business. Crooks was practically unknown in New York when I took hold of it.

XQ269. What was the extent of the Crooks business in doors for use on the Island of Manhattan? A. I think the first year I sold for Crooks went from $16,000 to $20,000.

XQ270. In the Island of Manhattan? A. As a whole.

XQ271. On the Island of Manhattan? A. I 3638
could not tell you that.

XQ272. Do you know what it was the second year? A. On the Island of Manhattan?

XQ273. Yes, sir. A. It was increasing every year. I don't keep the account. Crooks was practically unknown in New York outside of a few people here, and I built his trade up, and we were building up a very nice business.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrelevant and immaterial, hearsay, not binding on the defendants, and I make the same motion 3639
with reference to the testimony of the witnesses taken to-day.

Re-direct examination by Mr. Merritt—

RDQ274. I will ask you whether any of these customers have refused to buy the Crooks doors since the injunction was issued, on the ground that they were non-union? A. Yes, sir; they have.

RDQ275. Have you any particular customer in mind? A. Jacob A. Zimmerman.

RDQ276. Is that the man you spoke to me about? A. Yes, sir.

RDQ277. Where he finally turned down the order? A. I was not low, I did not get it, he told me he would not take it because of non-union. I told him if I got the job I could fix it up, but I was not low enough and he was afraid, he said then, on accountof the unions.

RDQ278. Generally speaking, you have received the same answers from these customers since the injunction was granted? A. Yes, sir; the same
3641 thing.

RDQ279. Did they give you any reasons why they would not rely on the injunction? A. No, only they wanted to seem more clear on it, more sure of it, they were afraid of strikes, afraid of the men leaving the work.

RDQ280. Did they state they thought that a preilminary injunction was not sure? A. Practically that; yes, sir.

Re-cross-examination by Mr. Maloney—

RXQ281. What did you mean, that if you got the work, you could fix it up? A. I thought that
3642 the injunction would permit them to put it up.

RXQ282. That is to say, that the union men would have to put it up anyway? A. I thought so, I thought if I was low on the estimate I would bring it before and see if I could not have it understood between the unions that they would put it up.

RXQ283. Were your instructions from Crooks to inform your customers that if they gave you orders—— A. I had no information from Crooks at all.

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RXQ284. You had no instructions from Crooks at all? A. No instructions at all from Crooks.

RXQ285. That was only your own opinion? A. That was only my own opinion.

RXQ286. These customers did not have the same faith in the preliminary injunction that you had? A. Evidently not. I think I had only one list since the injunction was granted, and that was from Zimmerman.

Subscribed and sworn to before me this day of , 1912

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Adjourned to Wednesday, January 10, 1912, 2 P. M.

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3646 William D. Maddox, for Complainant—Direct.

PAINE vs. NEAL.

Wednesday, January 10, 1912, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. BEATTIE,
and
MR. MALONEY.

WILLIAM D. MADDOX, recalled.

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Direct examination by Mr. Merritt—

Q168. Mr. Maddox, you are William D. Maddox, and you have already testified in this action once? A. Yes, sir.

Q169. Were you ever employed by any of the manufacturers of wood trim to watch shipments in New York City? A. Yes, sir.

Q170. When were you so employed? A. I think it was about the middle of February, 1910, as near as I can remember.

Q171. And for how long a period? A. Three
3648 weeks.

Q172. Did you seek this position, or were you sought? A. I was sought.

Q173. Now tell me the circumstances which gave rise to your employment?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. Why, I was not employed at the time. I had been some years previously employed by the Jamestown Mantel Co., and accidentally I ran

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across Mr. George M. Turner, the owner of the Jamestown Mantel Co., practically, and he asked me if I was employed, and I said, "No, I'll come around to see you." He said, 'Come down and talk it over with me, I think I have got something pretty good for you." Then we came down to the hotel across the street from the 42nd Street railway station (Grand Union or Grand Central or something), and while there he told me what it was. From there we walked down to the Waldorf-Astoria. This is where I met Mr. Palen, of Palen & Sons, and Mr. Kertschar, of the Kertschar Company, Mr. Humphreys, the manager of Palen's, and Mr. Turner. They told me they wanted to put a man out on the road to watch cars, as there was manufactured material such as doors, sash, material, being delivered here, and report to them, if possible, find out where they came from, and be sure to find out where it was being delivered; and after discusison of possibly a half or three-quarters of an hour, we came to an agreement, and the following week I started in. I guess it was along about the 5th, 6th or 10th, somewhere, when I had the conversation. About a week after that I started in, and I was with them about three weeks, going around to the different freight yards, seeing a carload of stuff being unloaded, I would ascertain the number of the car and the initials, to try and find out where it came from and where it was delivered, and report to Mr. Humphreys, of Palen's Sons, who was made the Secretary and Treasurer of these people.

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Q174. Do you recall anything else that was said at this meeting? A. Well, I asked him what it was for and they said——

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Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. They said they thought there was a possible chance of stuff still coming into New York from non-union places, and they wanted to be sure that there was—shall I make mention of firms?—they wanted to be sure and were going to be assured that there was no Morgan or Paine doors going to be delivered in New York City?

Q175. Was anything said as to how they were
3653 going to use their information? A. Well, they said if they found that, they thought, as the conversation went on that afternoon, they thought possibly the stuff was still coming in and they had—I don't know they communicated with the headquarters, which I understood was at Indianapolis—and they assured them if they could bring in evidence to them in any way where stuff was being allowed to come in from out of town, from non-union shops, they would take it up with the New York concerns in a way that led me to believe they were going to fine them, to place a fine on them; they said if they could prove that any
3654 stuff was being delivered in New York that was non-union, "bring the evidence to us, the proof, and we will take care of it."

Mr. Beattie: Who said this?

A. I can't tell you which party said it, but most of the talk was done by Mr. Kertschar and Mr. Humphreys.

Mr. Beattie: I move that it be stricken out as incompetent, irrelevant and immaterial, not responsive, and hearsay.

Mr. Merritt—

Q176. What headquarters did they speak of? A. The National headquarters of the carpenters.

Q177. The headquarters of the Carpenters' Union? A. Yes, sir.

Q178. And did they state that the officers of the Carpenters' Union had told them these things?

Mr. Beattie: Objected to on the same grounds, and as leading.

A. The officers of the National Union. 3656

Q179. Told them what, please? You stated that they said that if they could furnish any information that non-union stuff was being shipped into the market, that they would see that it was being taken care of, or something of that kind. Now, whom did they state said this? A. They did not state who said it. They said the unions on this end, they said no individual. The National Union told them if they could bring them proof whereby there was stuff being delivered in here, the National wherever it may be, would take it up with the New York unions in the way of a fine.

Q180. You were referring to the National Carpenters' Union? A. The National Carpenters' Union. 3657

Q181. Is there more than one Mr. Kertschar? A. The only one I know of is what they term the old gentleman, Herman. I think he has a son Edward.

Q182. And was it Herman Kertschar who was present at this meeting? A. Yes.

Q183. You stated something concerning the fact that they had signed agreements, or that they re-

ferred to the fact that they had signed agreements. What did you mean by that? A. Mr. Turner told me that they had signed an agreement to organize their shop as a union shop and to deliver and manufacture only union goods into New York City. This was the conversation with Mr. Turner from the Grand Union or whatever that hotel is, as we were coming down Park Avenue to the Waldorf Astoria. They had an idea that the stuff was still coming into New York, and was carried on by certain ones and delivered, non-union, and they
3659 were going to put an agent there, on the road, to find out if there was any stuff being delivered here, where it came from, where it was being delivered, and what concerns were supplying it, or who was putting it up.

Cross-examination by Mr. Beattie—

XQ184. Why didn't you testify to this before when you were a witness? A. I was never called upon to testify to anything of the kind.

XQ185. What were you called on to testify before? A. I can't remember now. Oh, the solicitation of work, and why I did not get it, as near
3660 as I can get it.

XQ186. How much did you get during these three weeks, and who paid it to you? A. Forty dollars a week. A check was given to me by Mr. Humphreys, paid on account.

XQ187. Who was it that you had this conversation with about the carpenters? A. Well, as a general body, at the meeting that day.

By Mr. Merritt—

Q188. Was any arrangement made for you to

watch any particular places and not others? A. Yes. Mr. Kertschar said, "Now that's a vast territory, Mr. Maddox." He said, "I'll take the Manhattan yard, which is known as the New York Central, and the Harlem Terminal"—it has a name there, I don't know what it is, "meaning everything north of 125th Street," and I was to take, I think, this 66th Street—whatever that is—33rd Street—I think it's St. John's Park, is the other one; and Palmer's Dock in Brooklyn, and Melrose. He said he would cover the rest, and that would lighten it up, because I would not be able to cover it all. He stated before the entire party that he would be able to take care of that, Mr. Herman Kertschar. 3661 3662

By Mr. Beattie—

XQ188. Who was it that you had this conversation with about the carpenters? A. I could not place it word for word, a general conversation, with everybody talking in.

XQ189. Tell us any one man who said anything about the carpenters to the effect that you have already testified? A. Why, Mr. George M. Turner. 3663

XQ190. Tell us exactly what he said and when he said it, and where he said it. A. Well, when he said it, I can't tell you the date, and where he said it was, as I say, somewheres between this hotel, as we were walking down to meet this party at the Waldorf Astoria.

XQ191. And what did he say about the carpenters? A. I said, "What do they want a man of that kind for?" "Well," he said, "we feel that there is certain people"—he did not mention who

3664 —"receiving manufactured goods from out of town, and if we can find those people," he said, "we have got a pledge"—or something of that kind—"that they will take care of us, as we have signed an agreement to organize."

XQ192. Did he state what National body? Or just say the National body? A. National body of Carpenters.

XQ193. Of carpenters? A. Yes, sir.

XQ194. Is that the only one you had any information upon, about the carpenters? A. That is
3665 the only one, that came up during the different conversation of possibly three-quarters of an hour; I don't think it was over an hour that we were all there together.

XQ195. He is the only one that said anything like that? A. I don't say that. I say it came up during the conversation, too. Then I went over the thing again. I can't say which one it was, and the same thing came up again, when we were together, that I must watch, as possibly something might be delivered in New York City from non-union shops, and to find out the number of the car and the initial of the car, and if possible where it
3666 came from, and to be sure and follow the truck and see where it was deliverd, report the building and the street.

XQ196. He was the only one that said anything like that? A. No, I say, it came up in the general conversation afterwards.

XQ197. Name somebody else who said anything of that sort? A. I could not name anybody else, who it was. There were only four in the party besides myself—Palen, Kertschar, George M. Turner, Humphreys and myself. It came up in the general discussion.

XQ198. Was he to look for all non-union trim coming into the city? A. Any car that we reported—they would take care of the other part themselves.

XQ199. Were you to report on union trim as well as non-union? A. Any car that I could see I should report on to them.

XQ200. That is, as to doors only? A. Everything.

XQ201. Every kind of trim? A. Whatever it was, whether it was sash or doors or trim, anything. 3668

XQ202. And no matter what size the sash was? A. Nothing was mentioned.

XQ203. How about flooring and blinds? A. Nothing at all to do with that, no, sir.

XQ204. That is, you were to cover the doors, sash—— A. Interior trim.

XQ205. Doors, sash and interior trim? A. That is the idea.

XQ206. What did you find out during those two weeks in your section? A. Well, what I found out, I don't know what the number of the car was, two carloads of sash at Melrose, and a car of doors. 3669

XQ207. Let us keep to Melrose. You found two carloads of sash at Melrose? A. Yes, sir.

XQ208. Where did it come from? A. I don't know.

XQ209. Do you know whether it was 1⅜"? A. Did not measure it, no, sir, I could not tell you that.

XQ210. You did not find out where it came from? A. No, sir.

XQ211. Did you find out where it went to? A.

No, I don't think I did. I see the name on the wagon, but I could not remember that name.

XQ212. Is that all the trim, sash or doors that you found coming in the Melrose Station? A. Yes, sir.

XQ213. Take the 33rd Street station, that is also part of your territory. What did you see there? A. A carload of doors.

XQ214. When did you see that? A. During this period of three weeks that I was there.

XQ215. Was this toward the end of the three
3671 weeks? A. No, I think this was about the middle of the period.

XQ216. Where did they come from? A. That I could not tell you.

XQ217. Where did they go to? A. Well, I could not tell you. Yes, I could, they were being loaded by the Empire City people and being brought up to their place corner of 130th Street and Broadway.

XQ218. Did you follow the truck? A. Yes, sir.

XQ219. Could you give us the date of that? A. No, sir.

XQ220. You don't know where they were from?
3672 A. No, sir; the only thing I could get was the initials of the car and the number.

XQ221. Have you got that? A. No, sir.

XQ222. Didn't you come down here with any data at all about this? A. The New York, New Haven & Hartford is the only initials I can remember of the carload. I could not tell you now.

XQ223. Where did you say that truck went from 33rd Street? A. To Manhattanville station, I think it is—133rd Street; to 130th Street and Broadway. That was the wareroom of what was

then the Empire Company, which is now the Empire City Girard.

XQ224. Do you know whether these were union or non-union doors? A. No, sir.

XQ225. And you don't know whether they were made by any of the plaintiffs in this action or not? A. I don't; no, sir.

XQ226. What did you find over at Palmer's Dock in Brooklyn? A. Nothing.

XQ227. And the extent of the deliveries of trim, doors, sash, to this city which you found during the three weeks, consisted of three carloads? A. 3674
Of uncertain cars. What I mean by uncertain cars is, where I did not know where they came from. I knew a lot of cars being unloaded. Several of the Jamestown Mantel Company. I just reported that.

XQ228. You are adding to what you discovered now? A. No. These cars I am telling you I did not know where they came from or where they were going to.

XQ229. I did not confine my questions to things you knew nothing about. I asked you how many cars you saw and reported on? A. Oh, possibly a dozen or fifteen cars that I repotred on. 3675

XQ230. How many carloads of trim, doors, or sash, did you find come to the Melrose station? A. I don't think there were over four or five, all combined, trim and doors.

XQ231. Were you only employed to watch those carloads of trim, doors and sash that you did not know where they came from? A. That is what I say; yes.

XQ232. But in order to do that, you had to find out what cars they were, that you did know where

it came from? A. Any car that was being unloaded, I was to see what it was and report on it.

XQ233. Regardless of where it came from? A. Yes, and only those were taken up that were an uncertainty.

XQ234. Taken up by you or by them, your people? A. The people, Mr. Humphreys.

XQ235. Did your reports cover everything? A. I had to bring in everything to show them what cars came in. He would say, "Did you see any more?" I would say, "Yes, Jamestown was un-
3677 loading two cars." They knew that and that came out.

XQ236. Can't you give us the exact date? A. I could not tell you; it all occurred in these three weeks.

XQ237. Can't you tell us when the three weeks began, so that we can verify your statement? A. Oh, I should judge it dated around from the first—well, from the 5th of February, possibly to the 26th, somewhere along that.

XQ238. You cannot give us accurately? A. No, sir.

XQ239. How many carloads did you find during
3678 these three weeks that came to the Melrose station? A. I don't think there were over four or five.

XQ240. Two of them you did not know about? A. Two were sash.

XQ241. And you did not know where they came from nor where they went? A. That is right.

XQ242. It was your business to find out where they went? A. Yes, sir.

XQ243. What did you do along that line of your duty? A. That was all written down on the report

and filed with Mr. Humphreys, but I can't remember the name now. All I can report is the man's name on the wagon and the number of his place. I don't know as I could pronounce the name if I knew it now.

XQ244. Do you know the name of his place? A. Some glazier up in the Bronx.

XQ245. Did you follow the trucks? A. No, sir.

XQ246. How did you find it? A. He was unloading right there.

XQ247. It might have been an expressman? A. No, his name was on the wagon. There was his 3680 name on the wagon—sash and glass, the number of the street and everything there.

XQ248. The carloads were all sash? A. Those two; yes, sir.

XQ249. Well, now, what were the other two? Where did they come from? A. Two of them came from Falconer, New York.

XQ250. What was in those cars? A. Interior trim.

XQ251. And where did they go to? A. I did not follow them up.

XQ252. What did you do to try to follow them up? A. I did not have to on that, because that 3681 was delivered by the Jamestown Mantel Company. My report was, that anything that was being delivered by Kertschar, the Jamestown Mantel Co., Palen's Sons—was just simply to be reported, and that was all right, all I had to do was to write that report down.

XQ253. The Jamestown Mantel people were one of your employers, weren't they? A. At one time.

XQ254. Weren't they in this combination? A. Yes, sir.

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XQ255. They were paying part of your salary in connection with this employment, were they? A. I suppose so.

XQ256. How many cars altogether did you find at the 133rd Street station? A. I only found three, because Mr. Kertschar said he would cover that territory.

XQ257. At the 133rd Street station you found three cars, did you? A. Yes, sir.

XQ258. Did you say that someone else was to do your work up there? A. Mr. Kertschar said that

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on account of the vast territory down below, that he would cover that, and as near as I can remember, the Harlem terminal over in the Bronx, I don't know just where.

XQ259. I had you down to cover the 133rd Street station? A. No, sir; the 66th Street, I think, it is New York Central, 33rd Street, St. John's Park, Palmer's Dock in Brooklyn, and Melrose.

XQ260. 66th? A. I guess that is the station, it is somewhere in the 60's, anyhow.

XQ261. You are adding to your territory now, I think, from what you testified before? A. No,

3684

sir.

XQ262. St. John's, 66th, 33rd—what was the other? A. Melrose and Palmer's Dock, Brooklyn.

XQ263. Well, now we got rid of Melrose. What did you find down at St. John's Park, anything? A. Nothing.

XQ264. Nothing delivered there in three weeks? A. I found nothing.

XQ265. How about 66th? A. Nothing.

XQ266. How about 33rd Street? A. Oh, I

guess in three weeks there were possibly six carloads up there.

XQ267. What did those cars contain? A. Interior woodwork.

XQ268. Where did they come from? A. If I am not mistaken, four of them came from Batavia, either three or four, and the balance were being delivered by the Jamestown Mantel Company; either three or four were Batavia people.

XQ269. Did you report them? A. Yes, sir. I always reported them all.

XQ270. And where did they go to? A. I could 3686
not tell you. I was instructed these cars need not be reported.

XQ271. How about Palmer's Dock? A. I found nothing.

XQ272. Well, what did your people do about any of the reports of these three cars, do you know? A. I cannot tell you, no, sir. I just made the reports, and they did the balance themselves.

XQ273. You don't know if any action was taken or not? A. No, sir.

XQ274. No action could be taken if you did not know about the cars? A. I could not tell you 3687
what action was taken, if any.

XQ275. There was no information you gave them as to where any of these carloads were delivered? A. Only the one I told you about the doors being delivered at the Empire warerooms.

XQ277. You knew these were union doors? A. I could not tell you.

XQ278. Don't you know where they were from? A. I could not tell you.

XQ279. Don't you know the Empire people is a union concern? A. I understood they were, I

don't know for sure. All I can say is, it was a New York, New Haven car. The number I forget.

XQ280. Who employs you now? A. Nobody at the present time.

XQ281. Are you doing any business at all? A. No, sir.

XQ282. Who was it said anything to you about Morgan or Paine doors? A. Mr. Humphreys, manager for Palen's Sons.

3689 *Mr. Merritt—*

RDQ283. That was said at this meeting? A. Yes, sir.

By Mr. Beattie—

XQ284. What meeting? A. The meeting at the Waldorf Astoria.

XQ285. Of those four people, including yourself? A. Mr. Kertschar, Mr. Palen, Mr. Humphrey, Mr. Turner and myself, that is five.

XQ286. Did they say anything about the Gould Manufacturing Company doors? A. No, nothing,
3690 only these two names were the only ones mentioned.

By Mr. Maloney—

XQ287. Why didn't you testify concerning these facts before when you were here as a witness? A. I don't know as I was called upon to do it.

XQ288. You weren't asked any questions, you mean? A. No, sir; I wasn't asked the questions.

XQ289. Did you know at that time that you

were going to be asked about such matters? A. No.

XQ290. When did you first learn that you were to be asked about these matters? A. I came down to give Mr. Abele of the Morgan Company some information, and while we were talking about it—we were at dinner—I mentioned this fact to Mr. Merritt, I believe here, and Mr. Abele. Mr. Merritt had me repeat it over again.

XQ291. Where was this, and when? A. It was noon, possibly, one o'clock, I should judge.

XQ292. Who was Mr. Abele? A. Manager of 3692 the Morgan.

XQ293. Did you come to see him by appointment? A. No, sir; I came of my own free will, in regard to another matter.

XQ294. Did Mr. Abele know when you came to see him that you were coming to see him concerning such testimony as this? A. Mr. Abele did not know a thing about it until this noon.

XQ295. Then it was by chance that you mentioned these facts? A. Just by chance.

XQ296. Was Mr. Merrit sent for then? A. No, Mr. Merritt happened to be at the table with us.

XQ297. That was the first Mr. Abele or Mr. 3693 Merritt knew of such testimony? A. First thing.

XQ298. And did you make a statement then? A. Yes, sir.

XQ299. Which was taken down? A. No, nothing taken down that I could see.

XQ300. No typewritten statement? A. Not at all.

XQ301. No written statemnt of any sort? A. Not that I could see.

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XQ302. No notes made of what you said? A. No, sir.

XQ303. That was at noon to-day? A. Possibly one o'clock.

XQ304. After one o'clock? A. In the neighborhood of one o'clock, I should judge, while we were sitting down to dinner.

XQ305. How long have you been unemployed? A. A week.

XQ306. You were employed, then, when you were here as a witness? A. How long ago was

3695 that? Oh, yes; I think that is right, with the Jamestown Mantel Company.

XQ307. You recently left their employment? A. Yes, sir; last Saturday.

XQ308. Voluntarily? A. Yes, sir.

XQ309. How long did this interview take place at the Waldorf, how long a time? A. Which one do you mean?

XQ310. When you were down there with these four? A. Oh, I suppose an hour would cover the whole thing.

XQ311. You had lunch at the same time? A. No, sir.

3696 XQ312. This was all talk? A. Mr. Turner met me; as I told you, and he wanted me to have dinner with him, and we had it at this hotel across from the Grand Central. After that we walked down, and Mr. Turner told me what this position would be about.

XQ313. Did he tell you that in the presence of these other men? A. No, not until we got down, then he said, "This is the man I propose to hire for this position."

XQ314. Where did you meet these men? A. At the Waldorf.

XQ315. And did you sit down and talk about the matter? A. Yes, sir, for possibly an hour, went over all that was necessary and I got the information of what I had to do.

XQ316. Where did you sit? In the cafe or the dining room? A. In the cafe.

XQ317. You did not go into any room and close the doors? There was nothing secret about it? A. No, sir, sitting at table alongside the wall.

XQ318. Spoke out loud? A. Ordinarily, as 3698
business men would talk, nothing loud.

XQ319. You did not feel at that time that you were engaging in any conspiracy against anybody's business? A. I don't know if you would put it that way.

XQ320. Did you at that time get that idea? A. No.

XQ321. Did you think these men were engaged in any conspiracy to interfere with anybody's business? A. No, I don't know, I don't know of anything of that.

XQ322. Did you know these men to be men of high character, business men? A. I knew they 3699
were all business men, yes, sir.

XQ323. Of good character, as far as you knew? A. Yes, sir.

XQ324. Had you met them before? A. Yes, sir.

XQ325. Respected them? A. Respected them, yes, sir.

XQ326. Now, did you know, or was it discussed at that time, that there was an agreemnt in New York between the master carpenters and the mas-

3700 ter woodworkers with the unions in substance whereby the master carpenters and woodworkers would not install what the unions called non-union trim? A. There was nothing said about an agreement with any of the master carpenters or builders of any kind.

XQ327. What was this agreement that was referred to? A. At this meeting?

XQ328. Yes. They referred to some agreement they had with the unions? A. Yes. After signing the agreement, as I understood it, with the
3701 National Board, as they termed it, the National Board of Carpenters, mill workers, they had an idea that something possibly might be coming in, and they put me on to see if there was anything coming in.

XQ329. Did you gather from the conversation at this time that there was an agreement in which these men with whom you were talking were interested, with the union, whereby the union would not work upon or erect what they called non-union trim? A. Yes, sir, I understood that Mr. Turner had an agreement whereby he would have to unionize, and would not put it up.

3702 XQ330. And he and Kertschar and Palen and—who was the other man? A. George M. Turner, representing the Jamestown; Mr. Kertschar himself, and Mr. Palen, and Mr. Humphreys, representing Palen's Sons.

XQ331. They were interested in this agreement, reference to which was made at the conversation? A. Yes, sir.

XQ332. Did you not understand from them that they wanted to find out whether the unions were dealing fairly with them under this agreement?

A. That is what they wanted to find out, if the unions were dealing fair with them.

XQ333. And did they claim that they had a suspicion that trim which would be non-union trim within their agreement was being put up by the unions, whereby others who were interested in the agreement would obtain an advantage over them? A. They had a suspicion, as they told me, that stuff was being delivered here possibly from non-union shops, and being put up by the union men of New York City.

XQ334. Precisely. And in that way these other 3704
persons interested in the same contract as themselves, would be able to obtain an advantage over them. Is that right? A. I judge that is what it would be.

XQ335. That was your impression? A. Yes, sir, that was my impression.

XQ336. In other words, they had a suspicion that the union might not be dealing fairly with them, as parties to this agreement? A. As parties to their agreement, yes, sir.

XQ337. Now, the particular thing that you were to do was to ascertain what cars came in, where they came from, and to what places the material 3705
in them was delivered, where such material was not well known union material that they had in mind? A. Whatever was in the car was mentioned in the report.

XQ338. Where you saw Kertschar's material, or Jamestown, or any other well-known material that you knew they were satisfied with—— A. Palen, Jamestown and Kertschar.

(Question continued.) To disregard them, to report them, but pay no attention? A. That is so.

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XQ339. If any other material, no matter where it came from, known or unknown, was seen by you at these points of observation, you were to trace where it came from if you could, and where it was sent? A. Yes, sir, what the cars contained.

XQ340. Now you were not asked, were you, to make any distinction about these cars, other than what I have just asked you about? A. No.

XQ341. You were to treat all cars alike in making your reports and in tracing them, and all material alike in tracing them, unless it happened to
3707 be some of the material of these four? A. Yes, the rest of them Mr. Humphreys and the Committee would take care of themselves.

XQ342. That was simply because the total territory was too large for one party? A. That is what Mr. Kertschar said, "It is too large a territory and I will take that up myself."

Statement of Mr. French—

I am Mr. French of Eidlitz & Hulse, and I want to make an objection to taking the testimony of Mr. Maddox in the absence of Mr.
3708 Mayer of our office, who has appeared for the defendants whom we represent in this proceeding, and also to the taking of the testimony of one Groll.

Examination Continued—

XQ343. I just understood Mr. Merritt to say you were going to leave town? A. Yes, sir.

XQ344. To-day or to-morrow? A. To-morrow morning at the latest.

XQ345. Where are you going? A. I am going to Buffalo first, and the Lord only knows where I will stop, I don't know myself, before I get there, to tell you the truth.

By Mr. Beattie—

XQ346. To Oshkosh? A. I may, yes, sir.

XQ347. What is your business with Mr. Abele? A. I was employed by him for a year and a half.

XQ348. For the Morgan Company? A. Yes, sir.

XQ349. You want to get another job there? A. Yes, sir. If I could get a job from the Morgan people I would take it willingly, or from the Paine or any other honorable firm.

XQ350. You say these people spoke about Paine and Morgan doors. Do you know any reason why they should refer to Morgan any more than any of these other plaintiffs? A. I could not tell you why that remark was made, any more than you could, it was just a remark that Mr. Humphreys made. Why he made it, I could not tell you.

XQ351. Do you think it will help you with Abele or the Morgan Company to give your evidence in this case? A. It would not help me a particle.

By Mr. Maloney—

XQ352. Have they promised you any position? A. No, sir.

XQ353. Then the mention of these names, Morgan and Paine, was merely illustrative, was it not? They wanted to find out if non-union con-

3712 cerns such as Morgan and Paine were delivering material? A. Possibly he did not want to name thirty or forty, so stated these two.

XQ354. That was probably the way it was mentioned? A. That was probably the way it was mentioned. He merely brought this up.

XQ355. He did not ask you to single out these people at all? A. Oh, not at all. At least, that is the only thing he said, "We want to see that no Paine or Morgan doors come into this town." These were the words that were used. Whether
3713 there were others meant, I could not tell you.

XQ356. Did they say that they had complained to officers of the union that other people in the same contract with the union were allowed to purchase non-union material, and the union men were freely putting it up, and in that respect they were not treated fairly under their contract, and that the union promised, if they would give them evidence of such instances, that they would take the matter up? A. They did not say anything of the kind, but they thought that possibly something like that might occur, and they felt that they could afford to——

3714 XQ357. Didn't they say that they had brought this up to the union officers in some way, so that the union officers promised them they would, if they would give them the evidence of that, they would endeavor to remedy it? A. That is what they told me at the meeting, if they could give them corroborative evidence, that if there was anything of that kind, the National body would take it up.

XQ358. You understood then, from these scraps of conversation about the union, or what the union

officers had said, that the union officers disclaimed having made any discrimination against them; is that right? A. Yes, that is right.

XQ359. And desired to have information or evidence furnished to them along these lines, and if such information was obtained, that they would undertake to remedy it? A. That is right.

XQ360. Had you talked with Mr. Abele at all about this case before this action to-day? A. Which case do you mean?

XQ361. This particular case in which we are taking the testimony now? A. No, it came up, as 3716
near as I could judge, to tell you honestly, it came up incidentally.

XQ362. You never had attached any importance to this conversation? A. No, not at all. Mr. Abele knew nothing about it. I thought there was nothing to it after I threw up the job, I thought there was nothing to it, I did not think it was a crime to watch a car, I thought that was a sort of past history.

XQ363. The importance of the testimony, then, if it has any importance, was only disclosed when it was related by you by chance to-day to Mr. 3717
Abele and to Mr. Merritt, the complainants' counsel? A. Yes, at the dining table.

XQ364. You have never been engaged in any conspiracy or crime of any kind?

Mr. Merritt: Objection, calling for a conclusion.

A. Not that I know of.

XQ365. And these men did not select or choose you as a proper instrument for carrying out any conspiracy? A. If it is admissible, I could tell

you why Mr. Turner explained to these people he thought I was the man.

XQ366. We would be glad to hear about it, because our clients are charged with being engaged in a gigantic conspiracy, and as you are one of the parties, and don't seem to have anything on your conscience—— A. He knew I knew all the builders in town, had been in this line of business for years, knew what a carload of trim and doors was, knew what was going on, and he thought I was the right man, and he proposed it to these people,
3719 and he said, "If I can bring you down we'll talk it over, and I have got you and we'll go down." That occurred between the Grand Union and the Waldorf Astoria. Knowing, in the line of business, what a carload of doors or trim was, and if the question came up, I would know it as soon as I saw it, he kind of waited——

XQ367. On account of your experience in the business? A. My experience of 25 years in the business, that is the whole thing in a nutshell.

XQ368. Did you make notes at the time, of whatever you discovered? A. No; I would just make a little note.

3720 XQ369. A rough note? A. Yes.

XQ370. Have you those rough notes now? A. No.

XQ371. Did you destroy them or give them up? A. Threw them away.

XQ372. When you made your reports to Humphrey, were they in writing or oral? A. Oral. He would write something—whether he was writing about that or not—he might have been writing about something else, I don't know.

XQ373. How often did you make your report?

A. Every day, whether I did anything or saw anything or not, I would make a report.

XQ374. During this time, did you see a man in the employ of Kertschar named Friedenreich? A. No, I only know two men of the entire firm to talk of. There is only one now and one that used to be. The two outside representatives and Mr. Kertschar himself, the only two I know.

XQ375. Did you ever see the stenographer in the office of Kertschar? A. Never been in his office.

XQ376. You never were in his office? A. Never. 3722

XQ377. Did you ever see a man purporting to come from the union, named Murray? A. No, sir, no.

XQ378. You saw no one who pretended or represented himself to be from the union? A. After that meeting I saw nobody but Mr. Humphreys, not even Mr. Kertschar.

XQ379. Have you ever met these men since this, Kertschar, or Turner, or any of these other men? A. I have been employed by Mr. Turner for about three months now until last Saturday.

XQ380. He is of the Jamestown Company? A. Yes, sir. 3723

XQ381. And this incident has never been referred to in any way by either him or you? A. Never, since that time. I never thought of it until at the luncheon table to-day.

By Mr. Beattie—

XQ382. What transportation line unloads at Palmer's Dock in Brooklyn? A. I could not tell you. I think, if I remember rightly now, the Erie and the Pennsylvania, I would not say, I would not

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want to say what they are positively, but I think it was a general delivery at the Brooklyn end for the Pennsylvania Railroad and the Erie, if I am not mistaken.

XQ383. Do you know of any line that unloads there from Oshkosh, Wisconsin, where the Paine and Morgan people have their factories? A. I don't; no, sir.

Re-direct examination by Mr. Merritt—

RDQ384. Might not the Erie line run from Osh-
3725 kosh? A. I could not tell you where it goes.

RDQ385. You don't know whether or not the Erie line would be part of the line for transportation from Oshkosh, do you? A. I could not tell you, not at all.

RDQ386. You saw this wagon carry away stuff from one of the depots when you were watching for shipments, and you said that it was some sash and glass man? A. Yes, sir, in the Melrose. The two cars I saw—you understand what I mean when I say uncertain, I don't know where they came from or where they were going. They were sash only. When I saw a car which I knew from
3726 experience was Jamestown, I just reported that car.

RDQ387. You don't remember the name that was on the wagons? A. I will try to remember it, and possibly can.

RDQ388. Do you think you would know it if you heard it? A. I think so; Arnstein, or something of that kind, sash and glass, in the Bronx.

RDQ389. M. Arnstein? A. Arnstein or something. I am doing the best I can to get to it. His

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name was on the wagon, and his address, sash and glass.

By Mr. Maloney—

RXQ390. During this period, did you discover or report any material which you knew came from Morgan or Paine? A. No, I did not see them.

By Mr. Merritt—

RDQ391. Coming back to this meeting at the Waldorf, and these various statements which you 3628
have narrated as being made there: Were all these statements made in the presence of all five of you? A. All five. We were all sitting around a table.

RDQ392. And all in a tone of voice which you judge could be overheard by all of you? A. Oh, yes. We were at one of those round tables.

Subscribed and sworn to before me }
this day of , 1912 }

3629

3730 Albert J. Schwarzler, for Complainants—Cross.

ALBERT J. SCHWARTZLER—examination resumed.

Cross-examination by Mr. Beattie—

XQ626. Where are those American Anti-Boycott Association circulars?

Mr. Merritt: I want it to appear on the record that I object to the production or offering in evidence of any of these circulars or any reference to them in the examination of this witness, on the ground that the testimony is incompetent, irrelevant and immaterial, and on the further ground that the evidence is not cross-examination; and if the testimony has any relevancy at all, it relates only to the special defence of the defendants, and an opportunity to rebut the testimony should be afforded the plaintiffs.

3731

Witness produces papers.

By Mr. Maloney—

XQ627. Have you got the envelope in which they came? A. No, sir.

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By Mr. Beattie—

XQ628. Where is that check that you sent them after September 1st last? A. All the checks I told you; I sent in my initiation fee of $25 and I told you I sent them one check of my dues.

XQ629. That is the check I want. A. You have got it there. You have got two checks there, all the checks I have ever sent.

XQ630. There is only one check here that I have seen. A. There ought to be two there. Well,

there is a receipt there for it, isn't there? There were supposed to be two checks here which I sent down. But there is a receipt for it.

XQ631. That is the check we want, December 14, $25? A. Yes.

By Mr. Maloney—

XQ632. You can mail it down here to the stenographer? A. If I can find it. I told the young lady to pick the checks out and pin them on to the receipts and register them and mail them. She attends to all the records. 3734

XQ633. Did you send a check to the American Anti-Boycott Association of $25 on December 14, 1911, for your dues as a member of that Association? A. Yes, sir.

XQ634. And that check was paid? A. Yes, sir.

XQ635. It was paid? A. Yes, sir.

XQ636. And you got the check back? A. Yes, sir.

By Mr. Maloney—

XQ637. And it is referred to in this letter of December 15, 1911, which I show you? A. Yes, sir. 3735

Mr. Merritt: I want to renew my objection to this entire line of examination, and assume by consent of counsel it can be so understood without repeating it.

Mr. Maloney: That is all right.

XQ638. We want that check? A. Supposing I haven't got it?

XQ639. Well, you have got to get it? A. Well, you can't tell me I have got to get it. There's no

such word as must get it. If that check has got lost between now and then, why, I can't bring it. I admit that we paid it.

Mr. Maloney: I want to offer in evidence these various papers which have been produced by the witness and I ask to have them marked in evidence, as Defendants' Exhibits B, C, Ca, D, E, F, G and H, respectively.

Mr. Merritt: I object to these papers on the ground that each and every one of them is incompetent, irrelevant and immaterial, has
3737 no relation to the issues in this action, and on the further ground that they do not constitute cross-examination or any part thereof.

Mr. Beattie: I desire to say here on the record that these papers are part of the declarations of the association which this witness has declared he belonged to, which is organized to fight union labor and union trim.

By Mr. Beattie—

XQ640. Is there any other object that you know of for this American Anti-Boycotting Association that you belong to, except to litigate, to
3738 bring actions?

Mr. Merritt: Objected to on the grounds already stated, and on the further ground that it is improper to ask this witness to state the purposes of the organization, which appear in its constitution.

By Mr. Maloney—

XQ641. And give advice? A. I don't know.

XQ642. You joined the association in order to help them to bring actions against labor organizations? A. No, sir.

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XQ643. What object did you have? A. What object did I have? I had no special object in joining them, simply heard of their cause and thought it was good.

XQ644. What cause? A. To stop boycotting and to bring outside material in.

Mr. Merritt: Objected to, because it is an attempt upon the witness's part to construe the objects and purposes of the organization, which apear in the written constitution, and I move that the answer be stricken out.

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XQ645. By court proceedings, you mean? A. I don't know.

XQ646. Have you, as a member, taken part in anything or authorized anything to be done by this association, except to bring actions by law? A. I have not authorized even that. I have never authorized anything.

XQ647. Well, haven't you authorized the bringing of an action by Louis Bossert & Sons of Brooklyn against the carpenters as a member of this association? A. No, sir.

XQ647. Isn't that action brought with your approval? A. It might be brought without my approval. I don't pay any attention. They send me circulars. I never even read any of these circulars. I simply belong to the association. Haven't read their constitution until to-day I read probably the first two pages.

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XQ648. Don't you know whether you are bringing this action or not as one of these members? A. I suppose if this association is bringing this action, you state that I am one of the members of it, yes, sir.

XQ649. Didn't they consult you about bringing it before you brought it? A. Not that I know of. They might have sent me notices, but if you haven't got them there, I haven't got them.

XQ650. Do you know if any such action is pending? An action brought by Louis Bossert & Sons against the number of the members of the Carpenters' organization and Joint District Council? A. I have heard of it, but I don't know any more about it.

XQ651. Did you hear of it before the action was
3743 begun?

Mr. Merritt: Objected to, incompetent, irrelevant and immaterial.

A. Not that I know of.

By Mr. Beattie—

XQ652. Has the association consulted you at any time about the progress of the action or steps being taken in the action? A. No, sir.

XQ653. Has the association consulted you at any time about the use of any of your moneys in
3744 connection with paying the expense of that action or the counsel in that action? A. It has never consulted me. I never contributed but one $25. Here the last week they sent me a list of members to vote on.

XQ654. Answer the question, please.

Mr. Merritt: I renew my objection on the ground that it is incompetent, irrelevant and immaterial and ask to have stricken from the testimony all reference to any case brought by Louis Bossert & Son.

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XQ655. Has the association consulted you at any time about the use of any of your moneys in connection with paying the expenses of that action or the counsel in that action? A. Not that I know of.

XQ656. Have you as a member of that association been consulted about the maintenance of any proceedings in connection with these litigations, an action brought by the Paine Lumber Company and others in which you are now testifying, and an action brought by Irving & Casson of Boston, both against the Carpenters' Association?

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Mr. Merritt: Same objection.

A. I don't thoroughly understand your question.

XQ657. Have you as a member of that association been consulted about the maintenance of any proceedings in connection with these litigations; an action brought by the Paine Lumber Company and others in which you are now testifying, and an action brought by Irving & Casson of Boston, both against the Carpenters' Association, and an action brought in the Supreme Court, Kings County, by the Albro J. Newton Company, also against officers of the Carpenters' Association and the Joint District Council?

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Mr. Merritt: Objected to, incompetent, irrelevant and immaterial and not within the issues.

A. Not unless there are some letters there in regard to it. (Referring to documents offered in evidence at this hearing by defendants.)

XQ658. You don't recall any mention of those

cases in these documents? A. Those letters come into my office, I never read them.

XQ659. You never read them? A. No, sir.

XQ660. Then you have not voted in any way as to the maintenance or any of the different proceedings in any of those actions, as a member of that association, have you? A. I have been asked by letter there, when I paid my dues, to kindly vote on the members, but I have not done so yet.

XQ661. I am not asking you about voting, but as to maintaining or making any moves in any of
3749 those actions? A. As I stated before, not that I know of.

By Mr. Maloney—

XQ662. You understood when you joined this that you were to receive legal advice and aid and assistance if any difficulties arose with labor again, didn't you? A. I never was in the office. My brother, August F., as that letter states there, went down there when we got this notice, and they had a talk with him about it, and that letter there states so. The first letter, when I sent them the $25. I was never in any of the offices until I was notified
3750 by the Hubbell Door Company and by the union here about this last trouble, otherwise I never was in his office, I never had any connections with them, only pay my dues and being an enrolled member.

By Mr. Merritt—

RDQ663. What office? A. At this office—I mean your office (referring to Mr. Merritt's office).

By Mr. Beattie—

XQ664. You mean the American Anti-Boycotting Association rooms? A. I don't know if that's the same room, office, I don't know. I believe they have their headquarters in the same floor and probably in the same office, but Mr. Merritt's office is one end.

By Mr. Maloney—

XQ665. Did you understand that you were to receive any benefit whatever from your membership in this association? A. I did not understand 3752
that I was to receive any benefit whatever, my brother has done all the talking with them.

XQ666. He is the principal stockholder in your company? A. I am the principal stockholder.

XQ667. And these contributions were made by you personally or by the company? A. All my contributions are made personally.

XQ668. And the membership runs to the company? A. Yes, sir.

XQ669. You are a prudent business man, and you don't give your money away, do you? A. No, sir. 3753

XQ670. Then, when you subscribed to membership in this association, you believed that there was some advantage to you, which was worth the money? A. I certainly did.

XQ671. Will you kindly state briefly as you can, what advantages you expected from your membership in this association? A. If I needed any legal advice in regard to any troubles in regard to getting outside material, or blocking material, the same as my brother had with the bricklayers, I

would come down and consult the attorney for the association in getting it.

Mr. Merritt: I object, incompetent, irrelevant and immaterial, and on the further ground that it is not the best evidence, as it is an attempt upon the part of the witness to construe the objects and purposes of the association and the relations of its members to it, which are defined by the constitution, and I move that the testimony be stricken out.

3755 *By Mr. Maloney—*

XQ672. And that if occasion should arise for the institution of any actions or proceedings to protect you in these matters, that you would be put to no other expense than your membership dues, is that right?

Mr. Merritt: Same objection.

A. No, sir.

XQ673. That is, you mean that you were not to bear any further expense? A. I was to bear further expense if there was any necessary.

3756 XQ674. What expense was that?

Mr. Merritt: Same objection.

A. Whatever expense may be incurred.

XQ675. What advantage was there then to you in joining this association if you were compelled to pay for the expense, over any other legal association or any lawyers that you might consult with?

Mr. Merritt: Same objection.

A. What is that?

XQ676. What advantage did you think existed from membership in this association? For the purpose of giving legal advice to you, over such legal advice as you might receive from any other attorney? A. I thought that they would understand the situation better.

XQ677. Have greater facilities? A. Yes, greater facilities, that being a member, they would take more interest in it.

XQ678. Did you receive circulars from time to time showing the different steps and proceedings 3758
in the Bossert case, or in the Irving & Casson case, against the union men?

Mr. Merritt: Objected to, calling upon the witness to give the contents of circulars which he may or not may not have received.

A. I don't know.

XQ679. Or concerning the Newton case?

Mr. Merritt: Same objection.

A. I might have and do not recollect.

XQ680. You do remember that these cases were 3759
instituted, in a general way, do you?

Mr. Merritt: Same objection.

A. No, I only heard of them in a general way.

XQ681. Did you hear of them by means of communications from the association, the Boycott Association?

Mr. Merritt: Same objection.

A. I might have.

XQ682. What is your best recollection of that?

A. I could not give you any recollection in regard to that, because lots of mail comes in which I never read at all, simply open it up and pass it as a matter of form.

XQ683. Isn't your best recollection that you received some information generally speaking about these suits through the mails? A. I would not want to say I did or did not.

XQ684. Your memory is uncertain on the point? A. It is uncertain on that point; yes, sir.

XQ685. Was your brother August who went
3761 down and saw the American Anti-Boycott Association people present on the occasion of this incident between the carpenters and yourself and McKenna and others, on Clay Avenue? A. No, sir.

XQ686. Did you talk with him about it? A. Not that I know of, no.

XQ687. Where is he now? A. He is up at—he is around, he is a man in business the same as I am.

XQ688. In connection with the company's business? A. No, he is not connected with my company's business. He is connected with his own company's business. He simply holds an office in my company, that's all. He has no other interest
3762 in it.

Re-direct examination by Mr. Merritt—

RDQ689. You have generally purchased union trim for your building operations, haven't you? A. I have, as far as I know.

RDQ690. Why do you purchase union trim in preference to non-union?

Mr. Maloney: He has answered all that before.

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A. Because it saves me a lot of trouble.

RDQ691. You mean trouble in connection with the installation of it? A. Yes, sir, installation, with the unions.

By Mr. Beattie—

RXQ692. When did you buy any of the non-union trim? A. Never bought any that I know of.

RXQ693. Never had any trouble about it? A. One of my contractors did have trouble; he afterwards joined the union. One of the gentlemen that 3764
was supplying me with trim previous to this job, had trouble.

RXQ694. I am asking you, did you have any trouble? A. If he had trouble it was trouble for me, because he tied up my——

RXQ695. Was it union or non-union? A. I don't know, but he said he had trouble.

RXQ696. Who was it? A. Mr. Biggart of the Empire Trim & Door Co.

RXQ697. Isn't that union? A. It is now, but at that time they were just organizing, as I believe from Mr. Biggart; he was one of the members of
the Empire City Company. 3765

RXQ698. And you bought some of it and put it on one of the buildings? A. No, I did not buy it, he bought it.

RXQ699. He bought it? A. Yes, he bought it. He is the trim man. I sublet the contract to him.

RXQ700. You had no trouble? A. I had trouble, waiting four or five weeks while he manufactured trim in his own shop and he had to give me some goods. He said it was union trim and the union claimed it was non-union.

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RXQ701. You did buy non-union trim? A. I did not; no, sir.

RXQ702. A sub-contractor did? A. A sub-contractor of mine, that is the way he said, I don't know whether he did or not. The union blocked his trim, stopped his work.

RXQ703. What do you know about it? A. He had to make some excuse to me.

RXQ704. That is what he told you about it? A. Why, certainly he told me about it.

RXQ705. And that is the information on which
3767 you based your evidence? A. My information is based upon what he told me and what had happened.

RXQ706. What happend? A. All the trim was in and they would not let him use it.

RXQ707. Who would not? A. The union.

RXQ708. What union? A. Carpenters' Union.

RXQ709. Where was the trim? A. The trim was in and had to be put in storage.

RXQ710. Where was it? A. I don't know, he said he stored it in New Jersey.

RXQ711. What did he do with it ultimately? A. I don't know.

3768 RXQ712. Where was this? A. Four houses on the east side of Clay Avenue between 167th and 168th Street, being 180 ft. north.

RXQ713. When did this happen? A. It happened about one year ago.

RXQ714. And then the trouble you refer to is that after you bought non-union trim the carpenters would not put it up, is that your trouble? A. That is the trouble I refer to.

RXQ715. That is the only trouble you know—in this case where it happened? A. If I got non-

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union carpenters, if I got enough of them to put it up, I would have trouble with the plasterers, with the bricklayers, and have other trouble connected with the building.

RXQ716. Have you ever had it? A. Have I ever had it?

RXQ717. Yes? A. Why, I have had small troubles, yes, sir; I know what happens.

By Mr. Merritt—

RDQ718. You have no troubles beyond those concerning which you have testified? A. No. Oh, wherethe steamfitters disputed, on the block above, Igave the contract for the hot water tank to the plumber, and the steamfitter comes up and takes all the other trades off until the dispute is settled between themselves.

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Mr. Beattie: I ask that that be stricken out.

By Mr. Beattie—

RXQ719. What happened when these men quit, when you bought the trim for this house at 167th-168th Street and Clay Avenue? A. The stuff was never delivered.

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RXQ720. So no carpenters refused to put it up? A. It was never delivered.

RXQ721. So no carpenters refused to put it up? A. They could not refuse it when it was not there, but Mr. Biggart——

RXQ722. No other trades quit there? A. They stopped several of Mr. Biggart's jobs on the head of this trim.

RXQ723. What have you got to do with Biggart? You had nothing to do with his jobs, did you? A. I had a great deal to do with them, when

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I was delayed and he gave me these excuses.

RXQ724. Did you have anything to do with these other buildings where you said there was a tie-up? A. No, when I simply started to argue about the trouble, he said "I'm in just as bad a fix down in 21st Street,"—some place down there—"they won't use the trim, it's delivered on the job and they won't use it."

Mr. Beattie: I ask that that be stricken out, not responsive.

RXQ725. Did you have anything, any contract,
3773 or other relations with these other jobs of Biggart's where he claimed carpenters had quit work? A. No, sir.

RXQ726. And the only job you had in your life where you or your sub-contractor bought non-union trim, to your knowledge, was this Clay Avenue job and 167th Street? A. 166th-167th, on the west side.

RXQ727. Yes. And there was no trouble? A. Both jobs are four houses, one on the west side of Clay Avenue, the one for Hubbell, and the last one we had trouble on was 166-167th. The one a year ago, Biggart, is on the east side, between
3774 167th and 168th Street.

RXQ728. Now in that Biggart job, the carpenters did not quit because the trim never got on the job? A. That's the idea.

RXQ729. And no other trades quit there? A. No, sir.

RXQ730. And you have never had a case where other trades quit because of non-union trim? A. No, sir.

RXQ731. Anything you have testified to in that regard is what other people have told you, is it? A. Yes, sir.

Jacob Schwarz, for Complainants—Direct. 3775

By Mr. Maloney—

RXQ731. Have you brought with you the letter from Mr. Hubbell? A. Is it there?

RXQ732. I don't find it there. A. Then I haven't brought it with me. She might not have it. I asked her to give me all the papers which pertained. I can find out on the telephone whether she's got it or not, if it will do any good. If I can find it, I will mail it.

Mr. Beattie: I move that the testimony of the witness be stricken out, on the ground 3776
that it does not refer to any mill of the complainants or to any action of the defendants connected with the complainants.

Subscribed and sworn to before me this day of 1912.

Jacob Schwarz, a witness called on behalf of of complainants, being duly sworn, testified as follows:

Direct examination by Mr. Merritt— 3777

Q1. What is your full name? A. Jacob Schwarz.

Q2. And your age, please, Mr. Schwarz? A. Thirty-eight.

Q3. And you are a builder engaged in business in the Borough of Brooklyn, are you not? A. Yes, sir.

Q4. How long have you been so engaged? A. In the building business, about seven years.

Q5. Are you a speculative builder, or a contract builder? A. Speculating.

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Q6. You sub-contract your work to someone else? A. I sub-contract for work in different trades, like bricklayers separate, carpenters separate, plumbers separate.

Q7. You don't employ anyone directly yourself? A. No.

Q8. And you build buildings for sale? A. Yes, sir.

Q9. Now you have dealt with the concern of Louis Bossert & Son, have you not? A. Yes, sir.

Q10. For how long a period of time? A. Since

3779 1905.

Q11. Could you tell approximately how much business you had with them a year? A. Oh, it is not every year alike, it all depnds how big a parcel I am building.

Q12. Would it average several thousand dollars a year? A. Between $6,000 and $7,000, say.

Q13. Now, in the spring of 1911 you made a contract to purchase certain materials from Louis Bossert & Son, did you not? A. Yes, sir.

Q14. And those were to be purchased for two six-story tenement buildings located at 201 South 2d Street, Borough of Brooklyn? A. 201-7 South

3780 2d Street, Brooklyn.

Q15. Now did you meet anyone who represented himself as coming from the Carpenters' Association or Union concerning this woodwork? A. Yes, sir.

Q16. Whom did you meet? A. A man by the name of Dhuy and some other man, I don't know his name. At first I did not know his name at all.

Q17. How did you learn his name? A. Afterwards.

Q18. And when was it you first met him? A. It must have been around the month of May.

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Q19. And where was it you met him? A. Right near the job.

Q20. Was the job in course of construction then? A. We were excavating then.

Q21. Give us the conversation which took place? A. They asked me where I am going to get my trim from. I said I was getting all my trim from Louis Bossert & Son. So they asked me if I had the contract signed. I said "Yes, sir." So they asked me if I would not withdraw my contract, cancel my contract with them. I said "I could not do it." I said "Why?" So he told me "It is 3782
non-union trim and it will give you trouble."

By Mr. Maloney—

XQ22. Who? A. The union.

A. (cont.) So I told him "I can't get rid of my contract because I am liable for it." They told me there were others that did it. I said: "I will back out of my contract provided if it comes to court he can't hold me liable for the money." I said: "Will you guarantee me that?" They said they could not do it. I said "Try, anyway."

Q22a. When did you next see this man Dhuy 3783
concerning this matter? A. Well, he used to come up to the job off and on, as the job started.

Q23. Did he always come with this same other man? A. No.

Q24. Do you recall anything else that was said by him at his time? A. At what time? He came on several occasions there while we were working, and then the last time he came up to call a strike; some of the men asked why, and he said "Because it is non-union trim," so I called up Bossert right away. I told Bossert that time that

I would like to get out of my contract on account of that and he said he would not release me. He said if they should strike he would put an injunction on, so that it would relieve me of the trouble. I called immediately up Bossert and told him about it.

Q25. Did you hear this man Dhuy call the strike? A. I was right there.

Q26. Did you hear what he said? A. I did not hear what he said, but some man asked him why they should strike, they were part way in the work,
3785 and he said: "Because it's non-union trim."

Q27. You heard him say that? A. Yes, sir.

Q28. Do you know when it was this strike took place? A. Last year, around October.

Q29. In the early part of October?

Q30. Why, I don't think I could give you dates. It is somewher around the early part. I had only about a couple of weeks more to work to finish the carpenters work.

Q31. Now, did you have any talk with Dhuy at this time when he called this trike? A. I told him. I asked him why he should call a strike. He said, well, he cant' help it. He was ordered to
3786 call a strike. He said certain manufacturers keep on writing to the unions (that belongs to the unions), and he said they can't ignore it.

Q32. Did you believe that you were employing only union men at the time? A. Oh. I am positive, because my contract with the carpenter contractor calls for—in fact, with all contractors—calls to employ union help only on my jobs.

Q33. Why do you employ union help only? A. Because I want to avoid troubles.

Q34. What kind of troubles do you refer to? A. Strikes.

Q35. Couldn't you secure non-union carpenters to do your work? A. Not without having trouble.

Q36. You mean, trouble with the carpenters? A. Carpenters and other contractors, for union labor—plumbers, plasterers and all others.

Q37. When did you next see Dhuy, if at all, concerning this matter? A. He was every day around the job there.

Q38. Well, tell me what conversation you had with him concerning this matter? A. I asked him what way there was to fix up the matter. I did not want to have any trouble. So he 3788
wanted me to sign a paper that I would not use any more—they call it unfair trim—so I thought it would be best for me to do it, and I signed the paper that on the next operations I have to use nothing but union trim only on my jobs.

Q39. Have you that paper? A. No, Dhuy has it.

Q40. You did not keep any copy of it? A. I had a copy of it, but I don't know what became of it. I made it out first, but he wanted it in a certain form and he made it out and I copied it for him and signed it. 3789

Q41. The contract was, in effect, that in the future you would use only union material?

Mr. Beattie: I object to that question, as referring to some one not identified and otherwise incompetent, irrelevant and immaterial.

A. Yes.

Q42. Did the men return back to work after you signed this contract? A. Yes, sir.

Q43. How soon after? A. Next day.

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Q44. Where was the contract signed? A. It was signed at 12 o'clock noon.

Q45. Where? A. Right in my tool house. He said he would put it before the committee, and next morning they started to work.

Q.46. Do I understand you to testify that you signed the contract with the undersanding that the men would go back to work if you did sign it? A. Yes.

Q47. Is this all you recall now of the conversation which you had with Dhuy? A. Yes, sir.

3791

Q48. Do you recall his stating anything as to watching the plaintiffs' place of business? A. It was not him, it was some other fellow.

Q49. Did someone with him make such a statement? A. He was not with him, he was separate. He just happened to pass by while we were working. We had quite a number of trim. He was talking in regard to Bossert's. He said: "Bossert isn't doing so much work now." He said: "We know just what's going out of his shop."

By Mr. Maloney—

XQ50. Who said this? A. One man.

3792

By Mr. Merritt—

Q51. Who was it? A. He was the first one that was there on the first occasion with Dhuy.

Q52. He was the man who accompanied Dhuy when he first spoke to you about this matter? A. Yes.

Q53. Was he introduced to you? A. They introduced themselves both to me.

Q54. They did? A. Yes.

Q55. Did they state that they were representatives of the Carpenters' Union. A. Yes, sir.

Q56. As I understand it, this man stated to you that they knew all the material that was going out of Bossert's shop? A. Yes, sir.

Q57. Is that the exact language, as near as you can recall it? A. Yes, sir.

Q58. Do you recall whether or not they stated that they were watching the shop? A. He said they had been watched; otherwise they would not know it.

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By Mr. Maloney—

XQ59. You mean, that is your opinion that otherwise you would not know it? A. He said so at that time. But I say, otherwise they would not know it if they did not watch it.

XQ60. That is your opinion you mean? A. Yes.

By Mr. Merritt—

Q61. Do you recall whether he made any general statements as to what they were going to do about the use of Bossert's material? A. What do you mean? 3795

Q62. Did he confine his statements to the material on your place, or being used in your jobs? A. They stopped a good many jobs at that time.

Q63. Did he state so? A. I don't recollect whether he stated it or not, but I know that the very same carpenters had the same, the carpenter boss was working on other jobs and he was stopped.

Mr. Beattie: I move that the evidence of

3796 Jacob Schwarz, for Complainants—Direct.

this witness be stricken out on the ground that it does not refer to any of the complainants' material, or any action concerning any of the plaintiffs, and as incompetent, irrelevant and immaterial and hearsay, not binding on the defendants.

By Mr. Beattie—

XQ64. Before you hired your carpenters on that building did you tell them that they were expected to put up non-union material? A. I did
3797 not have to say that.

XQ65. Did you? A. I did not say anything because I used the trim——

XQ66. Answer the question, please. A. No.

By Mr. Maloney—

XQ67. Did I understand you to say that your agreements with the boss carpenters or contractors provided for employment of union men and union conditions? Did you know before you bought the Bossert material that it was non-union material? A. Yes, sir.

3798 XQ68. And did you know that union carpenters would not work on what they claimed was non-union material? A. I was never bothered with it before.

XQ69. Never heard of it before? A. Never heard of it before.

XQ70. This was your first experience with that rule of the union? A. My first experience. I put up a dozen—somewhere about—buildings, and always used Bossert's trim, never had any trouble.

XQ71. If you had known that Bossert's ma-

terial was the kind of material that the union people would not erect you would not have bought it, would you? A. I would not have bought it; no, sir.

XQ72. Did Bossert say that he always had trouble with the union men and that he would get out an injunction and make them work anyway on this job? A. I wanted to back out of my contract the moment they told me. I went down with it to see if they would release me.

XQ73. Did you talk with Bossert personally? A. Yes, sir. 3800

XQ74. You did have a talk with him over the telephone too, didn't you? A. I notified Mr. Bossert that they had called a strike, over the telephone.

XQ75. Was it at that time that he said he would get an injunction? A. It was Saturday, 12 o'clock; nobody was in and the man at the place there which I called up, he told me that none of the Bosserts were there Saturday afternoon and that they will see what to do Monday morning.

XQ76. Then did you talk with them later, Monday? A. Yes, sir.

XQ77. When was it that he told you he would 3801
get the injunction? Monday? A. Well, Mr. Bossert, Jr., took me up to this gentleman's office (referring to Mr. Merritt) and told me to sign something for an injunction. I did not care to go into the troubles, you know. I thought it was being straightened up with the union and would go quiet. I'd rather sign a paper with them.

XQ78. He wanted you to get an injunction against the men before you signed that paper that you have referred to? A. What do you mean?

XQ79. I say, I understand your testimony to be that Bossert wanted you to make some affidavit or application for injunction—— A. That morning, that Monday.

XQ80. That is, before you signed up with the union, wasn't it? A. Before, yes.

XQ81. And you did not want to have anything to do with the injunction? A. No.

XQ82. You find it an advantage in your business to employ union men, don't you? A. Well, I find it is to employ them on the job, but not to
3803 buy it from the union mills, the stuff, because they turn out very rotten stuff.

XQ83. The union mills? A. They make you take anything they want to give you.

XQ84. They don't deal fairly with you at all? A. That is, the few I had experience with.

XQ85. I was speaking about employing union men? A. On the jobs, yes, around the building, as far as the interior is concerned; I don't know anything about——

XQ86. About the interior work? A. As far as in the factory there is concerned, I don't know anything about that.

3804 XQ87. You don't know anything about that? A. No.

XQ88. Have you dealt with any union mills? A. I had a figure on every job and I could never come to any agreement with them. Whatever I wanted they say, "You have got to take whatever we want to give you," whatever they make.

XQ89. Was it on that account you made no contracts with them? A. It was on that account I made no contracts with them.

XQ90. Have you ever had any building opera-

tions since this operation, this one where you had this strike? A. I am not completed with it yet.

XQ91. The first time you went to see Bossert did he tell you that he would get an injunction for you? A. What time?

XQ92. The first time you saw him, when these men came around and said—— A. I told them ——

XQ93. What did he say to you? A. He told me he would take care of it. He said he would put an injunction on them.

XQ94. Did he tell you at that time that he al- 3806
ways had trouble with the union men? A. He did not tell me anything at all.

XQ95. That he would put an injunction on them so as they could not leave the work? A. I don't know what he meant by the injunction, but he said he would put an injunction on them.

XQ96. They afterwards asked you to come over to see Mr. Merritt, the complainants' counsel here? A. Yes.

Subscribed and sworn to before me)
this day of , 1912)

3807

4:30 P. M. Hearing adjourned to January 11, 1912, 2 P. M.

3808 Chas. W. Abele, for Complainants—Direct.

PAINE vs. NEAL.

Thursday, January 11, 1912, 2:15 P. M.

PRESENT:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. BEATTIE.
MR. MALONEY.

Mr. Merritt: The testimony of Mr. Maddox, who testified yesterday, has not been yet
3809 written out, and I have not seen it, but I understood him to testify that he had no arrangements for employment with Paine or Morgan or any of the complainants, and if he so testified it was because he understood the question to be that he had been promised such employment on account of his testimony. The facts are that arrangements have been made between the Morgan Company and the witness Maddox to employ Mr. Maddox, but not for any definite period of time, the arrangement being dependent upon whether or not the services prove satisfac-
3810 tory.

Mr. Beattie: I ask that the statement of counsel be stricken out as improper.

Mr. Merritt: Do you object to learning the truth?

Mr. Beattie: I object to your testifying. We had a witness here to testify to that if he wantd to. Your statement of the truth and his are very different, too.

CHARLES W. ABELE, a witness called on behalf of

complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt:

Q1. What is your full name? A. Charles W. Abele.

Q2. And your age, please? A. Forty-nine.

Q3. You are the local representative of the plaintiff, Morgan & Company, are you not? A. Yes.

Q4. Where is your office? A. 59 John street.

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Q5. How long have you been the local representative in New York? A. Why, for the past fifteen or more years.

Q6. And it is your principal duty to sell goods for the Morgan Company? A. Salesman, yes.

Q7. What territory do you cover? A. Part of New York State, part of New Jersey, part of Pennsylvania, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine —the New England States.

Q8. About how much business do you do each year for the Morgan Company? A. Why, between $200,000 and $300,000.

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Q9. How much of that business is done with customers in the Borough of Brooklyn? A. It varies from year to year from $30,000 to $75,000, about.

Q10. And will those figures, generally speaking, apply to the last three or four years? A. Yes.

Q11. About how much busines in the last three or four years was done in the northern part of New Jersey? A. About the same amount as in Brooklyn, between $30,000 and $75,000.

Q12. What proportion of this business is in

doors? A. I should say 90 to 95 per cent; that is, sash, doors and blinds—by doors you mean other than trim—sash doors and blinds—doors amounted to 90 to 95 per cent.

Q13. Have you ever sold doors to customers on the Island of Manhattan? A. Yes, sir.

Q14. Can you give me the names of the customers? A. Well, we have none now.

Q15. Well, give me the names of such customers as you recall in years past. A. Murray & Hill, Empire City Woodworking Company, Van
3815 Nest Woodworking Company, Bronx Sash & Door Company and some of the large builders, some builders, I don't recall the names now. Yes, I guess, I can give one—Patrick Galligan.

Q16. Have you ever sold merchandise to the H. Herman Lumber Company? A. Yes, sir; to the H. Herman Lumber Company.

Q17. How about Bing & Bing? A. We sold them some years ago.

Q18. Now, you say you have sold none of these customers in the last year? A. No.

Q19. When did your business with these concerns stop? A. Why, it has been diminishing
3816 right along; this year is the first; that is, the year 1911 is the first year in which we have secured practically no business. We may have secured $1,000, $1,100 or $1,200, something of that kind, that's all.

Q20. Well, now taking the concern of the Bronx Sash & Door Company, have you attempted to solicit business from them? A. I believe the question of union would not come up with the Bronx Sash & Door Company. They don't seem to care whether they are union or non-union.

 3817

Q21. Now take the case of the H. Herman Lumber Company. When did they stop doing business with you? A. I can't say just when; they can't seem to buy from us because of the attitude of the unions.

Q22. You mean they so stated to you? A. Practically.

Q23. Whom did you talk to? A. I can't tell you his name.

Q24. Mittelman? A. Yes, Mittelman.

Q25. What reasons has he given for not buying? A. Why, we never went definitely into the 3818
reason. That is understood, when he buys non-union material the carpenters will not hang it.

Q26. He never told you anything of that kind? A. Not in those words, no.

Q27. But in any words? A. Nothing definite.

Q28. Now, have any of these concerns told you anything like that? A. Why, in the case of the Van Nest Woodworking Company they told me positively that they could not buy our goods because union carpenters would not handle it; in fact, the men were called out on some building on which our doors were being used.

Q29. How about Bing & Bing? A. They have 3819
said that they could not use non-union material.

Q30. They gave you this as a reason for not buying? A. Yes.

Q31. Who told you this? A. Why, some of their employes; I don't know the names.

Q32. You personally don't solicit builders, as a rule, do you? A. No.

Q3. Have you ever heard any other customers state that they could not buy because your goods were non-union? A. Why, that has come to me

3820 in this way: Builders frequently send in their lists to the office and ask for an estimate, or they drop a postal card, or write a letter asking our representative to call at the office and figure for them. Where I receive communications of that kind I usually use the telephone and find out if we can stand a chance of getting the business, they knowing that our material is non-union make, and I don't want to waste the time figuring unless they understand this. In fact, in every case I have been told there is no use figuring because we are
3821 running a non-union shop.

Q34. Well, now, has this been your experience during all the time you have been employed here by Morgan? A. Oh, no, not during all this time.

Q35. Can you tell me when this question first arose? Generally speaking, in what year? A. No, I don't think I can.

Q36. Was it about the time that the Van Nest Woodworking Company was doing business with you? A. The subject has really come up more or less all the time, but there were times when the union appeared to be watching things a little more closely than at others. At those times we cer-
3822 tainly could not get in, and when they were not watching things we could, and during the past two or three years it has been hard to get in there, hard to find anyone who would be willing to take a chance against the trouble it would cause them if they had our material.

Q37. Have you had as much trouble prior to that time? A. No.

Q38. Could you state that it was particularly within the last two or three years that this question had arisen in connection with the sale of your

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merchandise? A. I don't know whether I could state any more definitely than I have already. Of course, we came more closely in contact with the subject when we employed Mr. Maddox and he made it a busines of solicting work directly from the large businesses. That, of course, occurred in the year 1910 and in the early part of 1911.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrelevant, immaterial and hearsay.

3824

Cross-examination by Mr. Beattie—

XQ39. Did any of these gentlemen that you tried to sell your goods to tell you that the Master Carpenters' Association of this city had agreed among themselves not to buy any non-union material? A. No, sir.

XQ40. Do you know that to be a fact? A. I know of it only as it has come to me in talk I have heard.

XQ41. Well, that has come to you just as strongly as the matter of interference by labor unions with non-union products, has it? A. Why, about the same, yes.

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XQ42. That is, it is what others have told you? A. Why, yes, some of my customers have told me that they were forced to enter into an agreement of that kind.

XQ43. They told you they were forced? A. Said they were forced, yes.

XQ44. Did they tell you what the force consisted of? And who was it told you? A. One party I think of just now is Mackenzie.

XQ45. Who was he connected with? A. At the

time he was with the Van Nest Woodworking Company.

By Mr. Maloney—

XQ46. That was not the Master Carpenters' agreement? That was one of those agreements made by the union to unionize his shop, wasn't it? .A I don't know.

By Mr. Beattie—

XQ47. Mackenzie runs a union shop, doesn't he? A. He signed up some papers with some
3827 union.

XQ48. You did not expect you could sell non-union products to union shops? A. I don't know why I should not have a right to sell my goods anywhere.

XQ49. Well, if a shop is union? A. I did not know that it made any difference. We never ask our men whether they are union or non-union. When I go into a store and make a purchase I never question whether they are union or non-union, and I suppose I have the same right.

XQ50. You did not expect to sell the Van Nest Woodworking Company when you learned they
3828 were union? A. I certainly did.

XQ51. You knew your material was non-union? You know there has been a depression in the building industry in this city in the last year? A. Yes, sir.

XQ52. It would naturally affect your sales anyway, wouldn't it? A. Yes, sir.

By Mr. Maloney—

XQ53. You were just asked if you knew about

the agreement between the Master Carpenters or amongst the master carpenters on their own part not to buy non-union material? A. I don't understand the nature of that agreement at all.

XQ54. You recall that you made an affidavit at the time that this injunction was sought in this case? A. Yes, I recall making an affidavit.

XQ55. At that time was your attention called to this agreement between the Master Carpenters and the union men in New York, wherein in substance the Carpenters' Association agreed not to purchase non-union made material? A. I know 3830
there is some such agreement, but I don't understand the nature of it.

XQ56. I am trying to make the distinction between the agreement which we had in mind as counsel, made by the Master Carpenters' Association, and the kind of agreement to which you made reference when you spoke of Mackenzie. A. Well, that agreement that Mackenzie made I understood was forcing him to stop buying our goods. I don't understand what is back of it, though.

XQ57. I suppose when the injunction was sought in this case by Morgan and others you 3831
were familiar in a general way with what the agreement was that they claimed? A. No, I don't know.

XQ58. Didn't you read the papers at all attached to the affidavit that you made, in this printed book? A. Concerning the agrement?

XQ59. Yes, concerning the agreement which they wished to have annulled in part? A. Yes, in a way I did, yes.

XQ60. That was an agreement, generally speak-

3832 ing, between the Master Carpenters' Association and the Manufacturing Woodworkers and the union, which the complainants charge constiuted a conspiracy to prevent the free sale of non-union made goods here in New York. I don't wish to be understood as characterizing the agreement too closely. I want to get the distinction between the agreements Mackenzie made and these agreements which are complained of in the bill of complaint. A. I can't see any difference. My viewpoint in this, that my customers were forced to——

3833 XQ61. You understood from Mackenzie, did you not, that he had had some trouble in his shop with the carpenters and that to avoid such trouble he had made an agreement with the union carpenters that thereafter he would not purchase what they claimed was non-union material; is that correct? A. Yes, sir.

XQ62. Mackenzie has been here and has testified in substance to that effect and has promised, I believe, an agreement that he entered into. Now I wish to ask you if you have heard generally in the trade, or in your business, of these agreements entered into between the Master Carpenters' As-

3834 sociation and the Manufacturing Woodworkers' Association? A. No, I don't know the difference between the one and the other.

XQ63. This affidavit of yours states that you read the complaint, and the complaint makes reference to those two agreements and they are annexed as exhibits. Maybe if I allowed you to look at them you might recall them. You will notice in your affidavit that you have said that you have read the complaint herein. (Shows witness affidavit.) Now the complaint refers to two exhibits

annexed to it which are referred to in the complaint and one is Exhibit B and the other one is Exhibit C. Will you glance at those and see if you recall having had, through your customers, information about those agreements at or about the time that you obtained this information about the unions not putting up the material which you have just testified to on direct examination? (Witness examines papers.) Had you heard in substance about those agreements at or about the time that you heard these other statements about the unions not putting up material? A. Yes, 3836
about this.

XQ64. After you knew that these parties had made such an agreement did you still endeavor to make sales to them of your material? A. Why, certainly.

XQ65. And can you recall the name of any one of them who refused to purchase your material because it was non-union material? A. Those came to me, as I have testified before, as a request to call at their office and to figure or to quote on a list, and I would call on the 'phone to find out if it was any use to figure, because what I had to 3837
offer was non-union material, and I had always been told that for that reason it would be useless to waste my time. I am but soliciting business from the trade; I forgot those things and look for something I can get.

Mr. Merritt: You mean trade in Manhattan?

A. All over, in my territory.

By Mr. Maloney—

XQ66. Then you were honest enough in not attempting to sell to these people material which was non-union without stating to them the facts? A. Oh no, they had to know; I would take no chance on that.

XQ67. Now this difficulty in making sales of your material for the reasons you have referred to has only been within the last year and a half or two years? A. About that time.

XQ68. Prior to that time you sold to many of these people at intervals? A. Yes.

3839 XQ69. And do you still sell to people like Newton and Cross, Austin & Ireland and Bossert? A. I am selling Newton and Loomis and others.

XQ70. Those are all Brooklyn concerns? A. Yes. We sell Cross, Austin & Ireland as well.

XQ71. When was Maddox first in your employ; I mean in the employ of the Morgan Company? A. He started with us in February, 1910.

XQ72. And did you learn from him yesterday that for a short time he was employed by Palen, and Jamestown Company and Kertschar, and some other person, to watch certain goods coming into New York? A. Yes, sir; I did.

3840 XQ73. And when was it that he was employed to do that? Was that while he was in your employ, or was it shortly after he left your employ? A. You want to know when?

XQ74. Yes; when he was employed for that purpose? A. A. He told me it was three weeks before he entered our employ.

XQ75. Oh, it was several weeks before he entered your employ? A. Three weeks.

XQ76. And when he went into your employ did you know anything about that or have any talk

about it? A. I did not know about it until yesterday noon.

XQ77. How long was he in your employ? A. Oh, over a year; perhaps fourteen months.

XQ78. And you always found him to be an honest man in every way? A. Yes.

XQ79. And when he told you this matter yesterday there was nothing either in the telling of it or in the facts which made you change your opinion about his being an honorable fellow? A. Why, no; I had no reason to change my opinion.

XQ80. Is Maddox in your employ at this time? 3842
A. Maddox has started for Oshkosh to enter our employ on trial, yes.

XQ81. And did you employ him personally. A. I made the arrangement with him.

XQ82. Yesterday? A. No, it was before that.

XQ83. And how long before that? A. In the latter part of January.

XQ84. January? A. No, the latter part of December I mean.

XQ85. You can't give the exact date, can you, or fix it very closely? A. I could get the date by telephoning the office, if you want it.

XQ86. Was it immediately before Christmas or 3843
immediately after Christmas? A. Oh, it was before Christmas. I should say it was about the middle of December.

XQ87. And you began to negotiate with him about employing him at that time? A. No, I guess it was before that. Our man whose position he is to take left our employ and went to work for a new concern that is starting in business.

XQ88. Who is that? A. Mr. Potter.

XQ89. And when did you close your agreement with Maddox to enter the employ of Morgan & Company? A. About the middle of December last.

XQ90. Was it a definite agreement? A. No, I should say not.

XQ91. Is it definitely agreed now that he is in the employ of Morgan & Company? A. On trial, yes.

XQ92. At a fixed salary? A. At a fixed salary.

3845 XQ93. How did this conversation arise between Maddox and you yesterday concerning Maddox's employment by Palen and others? A. Maddox came down to me yesterday and told me of some other things he knew. I thought they were important and accompanied him down here to see Mr. Merritt and while talking the thing over he simply allowed that matter to slip out. I knew nothing about it before.

XQ94. And the other matters to which you attached importance were not considered of any importance, but this one to which he testified yesterday was considered important? A. That is the

3846 way you looked at it, I guess (referring to Mr. Merritt)?

XQ95. When you say you, you mean complainants' counsel and not me? A. Mr. Merritt, yes.

XQ96. Will you tell us, please, what Maddox said to you yesterday that he heard at this conference of these four men at the Waldorf?

Mr. Merritt: Objected to, incompetent, ir-
you relevant, immaterial, hearsay.

3847

A. I don't believe he went into that until after I left.

XQ97. What did he say while you were there? A. That he was employed as a sort of a spy; I guess that was it.

XQ98. Did he use the word spy? A. I remember he used the word detective.

XQ99. Did he use the word detective? A. Yes, sir.

XQ100. What did he say it was for? A. To report cars of doors and trim arriving, to trace them to see the parties to whom they were consigned.

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Mr. Merritt: I want to object to this entire line of testimony as purely hearsay, and the objection runs to all testimony as to what Maddox told this witness.

By Mr. Maloney—

XQ101. What time did you have lunch with Maddox and Mr. Merritt yesterday? I guess we got down to the dining room about a quarter after one.

XQ102. And did you remain there until the lunch was finished? A. Oh, yes.

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XQ103. It was then nearly 2 o'clock, was it? A. Yes.

XQ104. Did Maddox say anything in your presence about what was said to the Master Carpenters or the Manufacturing Woodworkers by officers of the National Carpenters' Union? A. Why, I recall that someone said that they were determined to stop Paine and Morgan doors from coming into this market.

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XQ105. That someone said that? A. Yes, someone who employed him, Maddox, to do this tracing, said that they were to stop Paine and Morgan doors from coming into this market.

XQ106. Did Maddox say to you anything about what was said to them, these four men, by officers of the National Brotherhood of Carpenters? A. I don't recall that.

XQ107. Can you give anything further of the substance of what Maddox told you and Mr. Merritt at this lunch, connected with this subject. A.

3851 No.

XQ108. You can give nothing further? A. No, I can't recall it now.

XQ109. What understanding did you get from what Maddox said was the object of Maddox's employment by these four men?

Mr. Merritt: Objected to, incompetent, irrelevant, immaterial, hearsay and not calling for facts.

A. Well, I understood he was to trace these cars and in that way prevent non-union material from

3852 being used here.

XQ110. Did you hear Maddox say at this conversation that these four men who employed him did not think that they were fairly treated by the union under the contract they had with the union? A. I don't recall that.

XQ111. And that they had a suspicion that non-union material was being purchased and being put up by union men and that in this way their competitors who were parties to the same contract as themselves were receiving an advantage over

them? A. I had heard Maddox talk on that line before, but not yesterday.

XQ112. Yesterday he gave a different aspect? A. He did not go into the matter fully in my presence; he went into that, I presume, afterwards, with Mr. Merritt, but not while I was there.

XQ113. And did he say that these men had been told by officers of the National Brotherhood of Carpenters that if evidence of such things was furnished to the officers of the union that they would endeavor to remedy it? A. He did not go into that in my presence. 3854

XQ114. And didn't you understand from the conversation with Maddox on this occasion at lunch that the object of these men was to obtain evidence for themselves that there was discrimination being made against them by the union men in erecting non-union material, where the parties had agreed to use only union material? A. He did not go into that in my presence.

XQ115. You said you had some such talk as that before with Maddox? A. Yes.

XQ116. Was the conversation which he gave yesterday or the description he gave of his employment different from what I understood it to be on a previous occasion? A. On a number of other occasions over a year ago he told me of some other men who were employed and then he mentioned those things. 3855

XQ117. That there was some other man employed? A. Yes.

XQ118. At that time, when you first had these talks a year or so ago the impression created in your mind was not that he, Maddox, had been employed upon such understanding, but that some-

3856 Chas. W. Abele, for Complainants—Cross.

one else had been? A. That someone was employed at the time we were talking.

XQ119. Do you recall where it was you had this other conversation with Maddox about a year ago? A. In my office, which was then located at 116 Nassau street.

XQ120. And when did you leave 116 Nassau street? A. May, 1911.

XQ121. Did you understand from that talk with Maddox then, a year ago, there was someone then at that time, when you were talking to Mad-
3857 dox, in the employment of these people? A. At the time I was talking with Maddox someone was in the employ of the people doing what he had done.

XQ122. Did he give you the name of that person? A. He did, but I don't recall it.

XQ123. Was it Humphreys? A. I would not remember the name.

XQ124. Was it Friedenreich? A. I don't believe I would remember the name.

XQ125. And did he refer to it then as someone who was doing what he had previously done? A. He never told me he had done that for them.

3858 XQ126. You never knew until yesterday at lunch that he had ever been in their employ? A. That is right, yesterday was the first I ever heard of it.

XQ127. Was the understanding of what this man was employed to do different from what you understood Maddox said he was employed to do yesterday? A. The same thing.

XQ128. The same thing? A. The same thing.

XQ129. Well, that is why I asked you if Maddox yesterday referred to the fact that these men

wished to procure evidence for their own satisfaction that no discrimination was being made by the union men in the erection of non-union material to their disadvantage? A. I told you before that I left before Maddox went into that part of the subject.

XQ130. You knew that Maddox came and was called and examined as a witness at 2 o'clock yesterday, didn't you? A. I did; yes, sir.

XQ131. How long before 2 o'clock did you leave? A. It might be two, three or four minutes before I don't know, just a few minutes before. 3860

XQ132. Now you are not able to give us the names of any customers who refused to purchase material of the Morgan Company upon solicitation for business, because union men would not put up the non-union material, are you, other than Mackenzie and the Van Nest Company? A. H. Herman Lumber Company.

XQ133. I understood you to testify that they did not say so in words, but that you drew that inference. A. It was not always necessaray to make use of words to explain just——

XQ134. You mean, you had some intelligent understanding in your own mind of what their atti- 3861
tude was? A. I can't give you the exact words.

XQ135. Can you give the substance? A. They simply could not buy non-union stuff.

XQ136. They did not tell you that they were under contract not to do so? A. No.

XQ137. When did this depression in the trade that you have referred to commence, approximately? A. Last year, 1911.

XQ138. In the early part of 1917? A. Yes.

XQ139. Didn't it commence as early as the mid-

dle of 1910 or the latter part of 1910? A. I had a good year in 1910, right up until the end of the year.

XQ140. Can you give us the amount of business you did on the Island of Manhattan in the year 1910, in doors? A. No, I don't believe I can; I never keep my trade separate in that way. I could make a rough guess.

XQ141. Let us have roughly your estimate of what you did in 1910 in doors on the Island of Manhattan? A. In doors and trim?

3863 XQ142. No, doors only. A. I should say about $10,000.

XQ143. And that was about 95 per cent of the whole of your trade on the Island of Manhattan for that year? A. I did not sell any trim at all in 1910 in New York City; it was all doors.

XQ144. All doors on the Island of Manhattan? A. Yes, sir.

XQ145. Did you sell any doors at all on the Island of Manhattan in 1911? A. Yes.

XQ146. Can you give us a rough estimate of that? A. About $1,500.

XQ147. Can you tell me what it was prior to

3864 1910, the year 1909, approximately? A. I should say it was $20,000 in 1909.

XQ148. And in 1908? A. I would not attempt to give any figures. I can't give you the figures for that year.

XQ149. Has your company been doing business for many years on the Island of Manhattan in doors? A. Yes, sir.

XQ150. And your trade is principally in doors, isn't it? A. Principally in doors.

XQ151. Have you seen or talked with Mr. Mor-

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gan since the commencement of this action, in or about April, 1911? A. Yes.

XQ152. Frequently? A. No.

XQ153. Did you have correspondence with Morgan & Co. about the employment of Maddox? A. Yes, sir.

XQ154. And how many times did you write? A. Well, now, which employment do you refer to, the first or the second?

XQ155. His present employment. A. Yes, Mr. Morgan wrote me if I knew of a suitable man to fill the position and I answered Maddox. Then he 3866
asked me to take up the subject with Maddox to find out what he wanted for his services.

XQ156. Was there anything said in the correspondence about the prospect of Maddox being a witness in this case? A. Not one single thing.

XQ157. How many letters passed between you and Morgan? A. Possibly three or four, I am not sure.

XQ158. Did you at any time refer in your letters to the fact that Maddox was or had been in your mind to be a witness in this case? A. Never referred to it. Mr. Morgan did not know that Mr. Maddox testified in the case.

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XQ159. You mean he does not know so now? A. He does not know so now.

XQ160. How long have you been Morgan's agent here? A. Fifteen or more years.

XQ161. Do you represent other manufacturers besides Morgan? A. I do not.

XQ162. Did you furnish money to Maddox to pay his railway fare out to Oshkosh? A. My agreement with Mr. Maddox was to advance his traveling and moving expenses.

XQ163. To Oshkosh? A. Yes, sir.

XQ164. And did you do that? A. I did; yes, sir.

XQ165. And did you purchase his ticket through to Oshkosh? A. I did not.

XQ166. You simply advanced him the money? A. Advanced him the money.

XQ167. Did you ever go with Maddox to any of these customers, or did you ever go alone, to ask them to give you business after you found out or heard about this agreement betwen hte Master
3869 Carpenters' Association and the Manufacturing Woodworkers' Association and the union men? A. When he was in our employ I accompanied him a number of times calling on builders from whom he was soliciting business, yes.

XQ168. Did your company sell directly to builders? A. In this city, yes.

XQ169. And they had been your customers for years? A. Yes.

By Mr. Merritt—

RDQ170. All builders, or just a special class? A. Large builders, who would buy in a sufficient
3870 quantity to make it an object to sell them.

By Mr. Maloney—

XQ171. I understood you to testify on your direct examination that the total business in your territory, where you are agent, was about $200,000 per annum. A. I said between $200,000 and $300,000.

XQ172. And what was it for the year 1911? A. I could not tell you, I have not figured it.

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XQ173. Was it greater or less in that year than previous? A. I could not tell you. Mr. Morgan asked me for the business I did in 1911 and 1910 and I could not tell you; I have not figured it.

XQ174. Do you keep books? A. I keep a sales book.

XQ175. Could you give it for 1910? A. No.

XQ176. Your territory consists of several states, doesn't it? A. Yes.

XQ177. Has your business diminished in those states within the last year or two? A. Not any to speak of.

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XQ178. 1911, for example? A. My business outside of New York City——

XQ179. I mean your total business for 1911 was less than it was for 1910 in the territory over which you have charge? A. I cannot tell you; I have not figured it; I have not had time.

XQ180. And you came here only prepared to testify that the Morgan Company was losing business on the Island of Manhattan? A. As a matter of fact, I did not know what I was to testify to.

XQ181. Well, you gave testimony, didn't you, designed to show that Morgan's business was less on the Island of Manhattan now than it formerly was, by reason of these acts of the unions? A. Yes, sir.

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XQ182. Did you come prepared to testify to that alone? A. Why, I'm not prepared to tell how much business I am doing in Brooklyn and Jersey.

XQ183. How could you arrive at these statements concerning the business on the Island of Manhattan without having considered somewhat the business that you did in toto? A. I know

pretty well whether I am selling anything in New York or not. I know that I am not selling anything here at all, whereas I am getting business right along over in Brooklyn.

XQ184. When you say "here" you mean the Island of Manhattan? A. Island of Manhattan.

XQ185. And when you made that statement it was on that account that you were able to make the statement you did about the business on the Island of Manhattan? A. Yes, sir.

XQ186. Did you do as much business in 1911
3875 as the preceding year? A. No, sir.

XQ187. What was the business in 1911? A. I can't give you the amount, but I know in a general way that I have not done as much in 1911 as 1910 in Brooklyn.

XQ188. Can you give it approximately in percentages? A. I should say my Brooklyn business was about half in 1911 of what it was in 1910.

XQ189. Might the business in any one year either in Brooklyn or Manhattan be considerably augmented or considerably diminished by one large order or the failure to procure one large order? A. Why, yes, but we did not secure even
3876 that one in Manhattan last year.

XQ190. Since the injunction was granted in this action, have you been to see any of these so-called former customers of yours and called their attention to the fact that they were protected by the injunction? A. No.

XQ191. Have you been to see them at all since the injunction was granted? A. I consider that my trade here is gone, lost; I have not been calling on them at all.

XQ192. Since the commencement of this action?

A. I have not been calling on any of the New York customers.

XQ193. You mean Manhattan? A. Yes.

XQ194. You are not in a position, then, to say what their attitude is since the commencement of the action, except by inference? A. Only as I talk with them over the telephone.

XQ195. Have you talked with them since the action was commenced? A. Yes.

XQ196. And that was when you received lists from them inviting bids? A. Or requests to call and figure, yes. 3878

XQ197. Can you give us the name of anyone who asked you to bid or furnish figures since the commencement of this action in about April, 1911? A. H. Herman Lumber Company called me up and wanted to knew how we stood with the unions; that he had a lot of material he wanted a figure on. I told him we were still non-union.

XQ198. He did not send any lists to you or ask you to figure, did he? A. I think he took it up with the house first.

XQ199. Morgan & Company? A. Yes. It went direct to Oshkosh by correspondence and then I 3879 took it up with him over the telephone.

XQ200. Among those mentioned on your direct examination as concerns with whom your company had done business and who had ceased to business with you were Murray & Hill, Empire City-Girard and—— A. No, not Empire City-Gerard Company, but the Empire City Woodworking Company, when they were up in Harlem.

XQ201. Their name was changed to Empire City-Girard Company? A. Yes.

XQ202. Did you know that they had become

parties to these agreements to which I have called your attention—this agreement, Exhibit C? A. I heard they signed an agreement, yes.

Re-direct Examination by Mr. Merritt—

RDQ203. Did not Maddox tell you he was going to stop off at Buffalo? A. Yes.

RDQ204. I show you a letter dated April 20, 1911, and ask you if you have ever seen that? A. Yes.

RDQ205. How did it come to your attention? 3881 Did it come to you through the mails in the ordinary course of business? A. Yes.

Mr. Merritt: I will offer this letter in evidence as Complainants' Exhibit 34.

Mr. Maloney: Objected to, incompetent, irrelevant, immaterial, hearsay, having no bearing on the issues.

RDQ206. I show you another letter dated April 22, 1911, and ask you if that came to you through the mails in the ordinary course of business? A. Yes.

3882 Mr. Merritt: I offer that in evidence as Complainants' Exhibit 35.

Mr. Maloney: Same objection.

RDQ207. Did you know anything about these letters prior to the time you received them? A. Not a thing.

RDQ208. Did you have any conversation with anyone concerning them, with the writers of the letters, or anyone connected with this concern? A. No, I did not.

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RDQ209. I will ask you if the prices at which you sell your merchandise are higher or lower than the price published or recommended by the Eastern Sash & Door Association? A. Aiways lower.

RDQ210. And how about the Veneered Door Association? A. Why, we are members of the association, but we never use their prices.

Re-cross-examination by Mr. Maloney—

RXQ211. Are you members of both associations, the Eastern and the Veneered? A. Yes.

RXQ212. When you say your prices are lower than the prices of the Eastern you mean lower than the list prices? A. Lower than the list they issue, yes. 3884

RXQ213. You have what you call a discount from that, don't you? A. We never use that discount.

RXQ214. Don't you sell by discounts from these Eastern prices as a standard? A. We sell almost everything at discounts, from a lot of different lists.

RXQ215. When you make up your discounts, in making your prices to customers, you base those discounts upon standard prices, don't you? Your standard goods? A. We base those discounts on some list, yes. 3885

RXQ216. And those lists that you use, are they the Eastern or the Veneered? A. Either the Eastern or the Western or our own list, or some New England list, or other lists.

RXQ217. Are those lists what are known as standard lists? A. Those are standard lists.

RXQ218. And the discounts are based upon those lists? A. Are supplied on those lists.

RXQ219. And when you say you sell lower, you mean that the discounts are taken from the lists? A. The discounts are applied to the list.

RXQ220. Applied to the list prices, I mean? A. Yes.

RXQ221. When I ask whether you sell lower, I am referring to your net prices as compared with the prices of the Eastern Sash & Door Association, with the Eastern Sash & Door Association discounts. Are your net prices lower than their net prices? A. Our net prices are always
3887 lower than their net prices, yes.

RXQ222. And you don't use the list of the Veneered Door Association? A. I don't use that list at all. We have our own, Morgan Company's list.

RXQ223. And these price lists that you are referring to are gross price lists? A. Gross price lists, yes.

RXQ224. And the discount on them is discount usually over 50 per cent? A. Yes.

RXQ225. Sometimes it is as high as 75 per cent, isn't it? A. Yes, sir.

3888 RXQ226. And you receive discount lists from Morgan & Company from time to time, do you not to apply to these standard lists? A. Yes.

RXQ227. And do you receive and keep on file discount lists recommended by the Eastern or Veneered Association? A. I may have some, but pay very little attention to them.

RXQ228. What you pay most regard to are these discount lists which are sent to you by Morgan & Company? A. The price schedule sent by the people who pay me, yes, sir.

Roswell D. Tompkins, for Complainants—Direct. 3889

RXQ229. When you say the people who pay you, you mean Morgan & Company? A. Yes, sir.

RXQ230. Those are typewritten lists, are they not? A. Sometimes they are, sometimes our vice-president will write longhand letters.

RXQ231. Who is the vice-president? A. Mr. Richmond.

3:45 P. M. Adjourned without date.

Subscribed and sworn to before me this day of , 1912

3890

PAINE vs. NEAL.

Hearing adjourned to Wednesday, March 6, 1912, 2 P. M., at 27 William street.

PAINE vs. NEAL.

3891

Hearing Wednesday, March 6, 1912, 2 P. M., at 27 William street.

APPEARANCES:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. MAYER.
MR. BEATTIE.
and
MR. MALONEY.

Roswell D. Tompkins, a witness called on behalf of complainants, being duly sworn, testified as follows:

Q1. You are secretary of the Building Trades Council of the City of New York? A. New York Building Trades Council.

Q2. You have the constitution of that organization with you? A. I have. (Produces constitution.)

Q3. This is the constitution which you have handed to me? A. The constitution of the New
3893 York Building Trades Council.

Q4. This council is affiliated with the Building Trades Department of the American Federation of Labor?

Mr. Beattie: I object to the question because the word "affiliated" is not definite enough.

A. The Building Trades Department—we hold a charter from the Building Trades Department of the American Federation of Labor.

Q5. The New York Building Trades Council is composed of different unions engaged in the
3894 building trades in New York, is it not? A. Different industries, mechanical organizations.

Q6. How many? A. About thirty-seven.

Q7. There are about thirty-seven different organizations which go to make up this Building Trades Council? A. Composing that, yes.

Q8. Now the carpenters' organization is one, is it not? A. The Carpenters' District Council is connected.

Q9. It is connected as the Carpenters' District

 3895

Council of New York and Vicinity? A. No, of Greater New York.

Q10. How long have you been secretary of the Building Trades Council? A. I have been secretary of the Council since its inception; that is, about three years ago, but I have been continuous secretary of the building trades for about seven years, prior to that time.

Q11. The New York Building Trades Council has only been in existence three years? A. You will find the date of it in the back of that constitution.

3896

Q12. I see "Conference of Building Trades held on October 19, 1908"—is that the date? A. It will tell you.

Q13. I see "Permanent organization formed January 12, 1909."? A. Yes, sir.

Q14. Then it was January 12, 1909, that the Building Trades Council was formed? A. Yes.

Q15. What organization preceded it, to which you were referring? A. The Central Association of Building Trades, which had no connection whatever with the American Federation of Labor—a local body.

Q16. What is the name? A. Central Association of Building Trades. 3897

Q17. Now this Central Association of Building Trades was similar to this, as far as this local organization goes? A. It was a local body.

Q18. And included in its membership the building trades in Greater New York, this organization? A. Yes, sir.

Q19. The New York Building Trades Council succeeded that? A. It succeeded it, through the American Federation of Labor chartering differ-

3898 Roswell D. Tompkins, for Complainants—Direct.

ent industries, like the metal trades; they separated them; the building trades, they separated them, and the labor trades, they separated them; they then chartered them as different departments.

Q20. The central organization to which you referred went out of existence when this one came in? A. As soon as the charter was granted to New York by the Building Trades Department, to the building trades, this central organization went out of existence.

3899 Q21. Did the old organization have practically the same unions connected with it as this organization? A. The same organizations; it was simply a case of one absorbing the other and having a national connection.

Q22. How long had the old organization been in eixstence? A. About two years prior to the formation of the Building Trades Council.

Q23. That would make it about 1906 or 1907? A. In 1904 the Associated Building Trades was the body, prior to the Central Association; the first time I took office was in 1904.

Q24. Then there has been an organization of
3900 this kind how many years? A. A central body right straight along.

Q25. For ten years? A. Since 1904 there has been a central body.

Q26. That was the first time you were secretary, when the central body was formed? A. That was the first time, in New York City; then I was elected secretary and have been secretary continuously through, no matter what the change was from the Building Trades to the Central Association or the New York Building Trades; I have

continued right through all elections without any opposition.

Q27. About how many members are included in the various unions connected with the New York Building Trades Council? A. Taking them all?

Q28. Yes. A. Well, I issue about 65,000 to 70,000 quarterly cards every three months; sometimes they run as high as 85,000 or 90,000 ,especially in the summer; quarterly cards.

Q29. Those cards indicate the membership at about the time you are issuing the cards? A. The requisitions for the incoming quarter; sometimes 3902 they come higher than others; summer months are higher than in the winter months.

Q30. Do you issue cards for every union man included in these thirty-seven trades in Manhattan? A. They all go through the office. I issue them to the organizations on requisition.

Q31. And do you sign them yourself? A. They are all printed with an autograph signature.

Q32. Your autograph signature? A. Yes.

Q33. And then you issue cards of the New York Building Trades Council to the union carpenters don't you? A. I certainly do.

Q34. Do you know how many you issue to them? 3903 A. The last order I issued was for January-February-March, 22,000 I think their requisition was.

Q35. Does that figure practically the same for the last two or three years? A. They run 20,000 to 22,000.

Q36. And this question of general membership, that has run the same for the last few years? A. About the same; it ran higher in 1907; before the panic it ran higher than any; we have had it over 100,000.

3904 Roswell D. Tompkins, for Complainants—Direct.

Q37. And have you always had about thirty-seven trades affiliated? A. From thirty-five to thirty-seven.

Q38. Can you tell me who represented the Joint District Council of the Carpenters in April, 1911? A. In April, 1911? That is, in the Building Trades Council?

Q39. Yes; just a year ago. A. Alexander Kelso, Henry W. Blumenberg, Henry Erickson, Charles H. Bausher, John J. Towers; that is about all; there are ten altogether; I have not got them
3905 I am reading from January 1, 1911; there are ten delegates altogether, ten represntatives. Those have been continued, I am positive.

Q40. They were delegates during—— A. Known as representatives of the carpenters' industry to the Building Trades Council.

Q41. Were they in during the first six months of 1911? A. Yes, they are credentialed for six months. Those that I have mentioned I am positive of. There are three or four others to make the complete ten that I would not be sure about.

Q42. This constitution of the Council which you have handed me says "Issued November,
3906 1910," and I take it that is the date when it went into effect, approximately? A. When it is issued, it has been acted upon.

Q43. And this same constitution is still in operation? A. The same constitution.

Mr. Merritt: I will offer that in evidence as Complainants' Exhibit 36.

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial.

Mr. Merritt: I will state now that I am

going to put this evidence of Mr. Tompkins in the Irving & Casson case also.

Q44. There is connected in some way with this Building Trades Council a Board of Business Agents? A. United Board of Business Agents.

Q45. And you have a Board of Business Agents for the Borough of Manhattan? A. That is it; it is for the Borough of Manhattan.

Q46. Have you the constitution of that board with you? A. I have.

Q47. Can you give me the names of the repre- 3908
sentatives of the Carpenters' Union who were on this United Board of Business Agents in the spring of 1911? A. Offhand I could not. They have had changes twice since then. David French, Alexander Kelso; they have elections twice a year and they have made three changes since their January, 1911, credentials came in. I am positive of French and Kelso; they are two out of the five that they have; they have been continued.

Q48. Could you say that David French and Alexander Kelso were on the Board of Business Agents from January to June, 1911, at least? A. 3909
Pretty positive, yes, and up to date they are.

Mr. Merritt: I will offer this constitution of the United Board of Business Agents in evidence as Complainants' Exhibit 37.

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

Q49. This constitution of the United Board of Business Agents which I have offered in evidence was in existence—— A. It will tell you on the first page when it was issued.

Q50. Isn't it true that it was adopted April, 1910 A. Yes, that is right.

Q51. And it has been in existence ever since? A. It has been in existence ever since. There are general notes there of any alterations or amendments on the new editions.

Q52. There is a Board of Business Agents for the Borough of the Bronx, is there not? A. There is a board, yes.

Q53. Are you secretary of that? A. No, I am not.

Q54. You are secretary of the Board of Business Agents for the Borough of Manhattan? A. Under the laws of the constitution of the Council, every secretary of the Council is secretary of the Manhattan board.

Q55. Do you know whether or not the constitution of the Board of Business Agents for the Bronx is the same as this constitution? A. Similarg, yes; these is simply a change of "Bronx."

Q56. But they are substantially the same? A. Substantialy the same. Bronx is under the jurisdiction of the Building Trades Council.

Q57. Does your Building Trades Council have any jurisdiction over Brooklyn? A. No jurisdiction at all.

Q58. It only has jurisdiction over Manhattan and the Bronx? A. Manhattan and the Bronx.

Q59. Will you give the names of as many of the members as you can think of which are part of your Building Trades Council? A. The asbestos workers, bluestone cutters, cement masons, cement laborers, engineers, electricians, iron workers, fixture workers, lathers, marble cutters, marble polishers, marble helpers, machinists, plas-

 3913

terers, plasterers' laborers, painters, glass workers, plumbers and gasfitters, riggers, steam industry—steam fitter and steam helper—tile layer and tile helper, tunnel and subway contractors, rockmen, waterproofers, upholsterers, carpenters; that is as near as I can remember.

Q60. You may have omitted one or two? A. It all depends on how many are there; I try to recall them all.

Q61. There are thirty-five to thirty-seven in all? A. Yes thirty-five to thirty-seven.

Q62. And the bricklayers are not affiliated? A. 3914
No connection whatever.

Cross-examination by Mr. Beattie.

XQ63. Are there any other union trades engaged in building operations who are not members of the Building Trades Council or of the United Board of Business Agents, except the bricklayers? A. Yes, there are several organizations not in that body; there are house shorers, there are what are known as alteration carpenters, derrick men and riggers, dock builders, foundation and caisson workers, housesmiths, coppersmiths; probably half a dozen more that I cannot remember offhand. 3915

XQ64. By housesmiths, you mean iron workers? A. We handle the structural; the ornamental we do not. One is a housesmith and the other is an iron worker. The structural man is known as the iron worker and the housesmith is the ornamental man that does the grille work and that sort of thing.

XQ65. The ornamental is not affiliated with

your organization and the structural iron worker is? A. That is right.

XQ66. Do you know how many of these alteration carpenters there are? A. About 3,000 of them, so I have been given to understand.

XQ67. And they have no connection with either of your two bodies or the Brotherhood of Carpenters? A. None whatever.

Mr. Merritt: I object to that part of the question which relates to the Brotherhood of Carpenters, unless the witness is in a position to know that these alteration carpenters are not connected with the Brotherhood of Carpenters.

3917

XQ68. These alteration carpenters are affiliated with what is known as the Hebrew Trades? A. The Hebrew Trades and the Industrial Workers of the World, I believe they call themselves. They have an office on East Broadway.

XQ69. And the Hebrew Trades covers a number of building trades in their membership? A. Yes. They handle considerable of that alteration and new work there; that is, Hebrew builders and contractors.

3918

XQ70. And none of the organizations in what is known as the Hebrew Trades are connected in any way with either of your two organizations. A. No connection whatever.

XQ71. And no connection with the Brotherhood of Carpenters? A. The alteration carpenters have no connection with the Brotherhood of Carpenters.

XQ72. Can you give us an estimate as to how many non-union men are engaged in the different

 3919

trades in the building industry in Greater New York, outside of those 65,000 to 70,000 to whom you issue union cards?

Mr. Merritt: I object, unless the witness has shown himself qualified to give such an opinion.

A. When the United States Government itself can't compute it, I don't see how I can. That is from practical experience, only here about two or three months ago, trying to establish a union rate of wages for mechanics in the Navy Yard in 3920 the Government employ.

XQ73. There are a great many non-union men engaged in these different trades in Greater New York? A. Many of them.

XQ74. Now the cards issued to carpenters you say vary between the summer and winter months. About how much variance is there? A. From 2,000 to 5,000 on the three months; that is, taking April, May and June quarter, July, August and September quarter, they vary from 2,000 to 5,000. My straight order might be for 22,000, and then before the quarter is up I might get another requisition for 2,000 or 3,000 more in that quarter; 3921 that is generally in those six months, April-May-June, July-August-September.

XQ75. And you issued 22,000 cards as of the first of January this year? A. Yes, January-February-March, 1912, 22,000.

XQ76. Now it does not follow that those cards went to 22,000 carpenters? A. I don't know what disposition is made after they leave my hands. They go to the secretary of the District Council.

XQ77. If these working cards issued to the car-

3922 penters are not used are they returned to you? A. No, they are destroyed, supposed to be destroyed and I presume they are.

XQ78. And no record is sent to you of the number that are used or the number destroyed? A. No.

XQ79. Can any of the business agents of the Brotherhood of Carpenters sit in the Building Trades Council? A. They can, if elected by the District Council as a representative of the Coun-

3923 XQ80. But as business agents of the Brotherhood of Carpenters they have no right in the Building Trades Council? A. Not unless they are sent there as a delegate; they must be a credentialed delegate of that council, irrespective of their membership in the board, at which, of course only business agents can take a seat.

By Mr. Merritt—

RDQ81. Is that all done as provided in the constitution? A. Yes, sir. I might explain that. Nobody but an elected business agent can take a seat and they must be an elected business agent
3924 who goes in the Board of Business Agents. In the Council there are representatives elected by that industry that represent that industry in the Building Trades Council. It rests with them whether they desire to send two or three business agents, that is their affair. There is no use eliminating them, but if they are not credentialed delegates they have no voice at all.

Roswell D. Tompkins, for Complainants—Cross. 3925

By Mr. Beattie—

XQ82. The Building Trades Council interpreted Section 36 of its constitution in what way? A. (Reads) "Chair rules that Section 36 prohibits the sitting of any business agents of the Manhattan Board in any other Board of Business Agents in the Borough of Manhattan, and if any of the members of this board are seated in such that they should sever their connections immediately." This is the record, the latter portion of it.

By Mr. Merritt— 3926

RDQ83. When was this interpretation given? A. October 19, 1909.

By Mr. Beattie—

XQ84. Has that ruling been changed in any way? A. No.

XQ85. Still the law? A. Yes. I think I can antedate that. On the Building Trades Council I have got November, 1909, and February, 1910, almost similar to that, where rulings have been asked on that section again.

Mr. Maloney: I move to strike out the testimony of this witness as incompetent, irrelevant and immaterial, and in no way binding upon these defendants. 3927

By Mr. Maloney—

XQ86. What was the reason for the organization of this board? What are its purposes?

Mr. Merritt: I object to that as incompetent, irrelevant and immaterial, as it can only be proven by the purposes and objects stated in the written constitution.

3928 Roswell D. Tompkins, for Complainants—Cross.

A. It is fully contained in the constitution there; it states everything, what the duties are and everything right in their own constitution.

XQ87. What are those duties?

Mr. Merritt: Same objection.

A. I will read it to you if you want me to.

XQ88. Are there any other duties besides these? A. Their duties are in that constitution.

XQ89. It is not an incorporation, an incorpo-
3929 rated society, is it? A. No, they hold membership through the Building Trades Department of the American Federation of Labor, through the charter to the Council.

XQ90. Who elects the members of this board? A. The various industries elect their own representatives to the board; that credentials them as such.

XQ91. One of their objects is to decide trade disputes?

Mr. Merritt: Objected to, as all of these matters more properly appear in the written constitution.

3930

A. They handle all jurisdictional questions, non-union questions that are presented at the various jobs.

XQ92. Do they decide matters in dispute which come up between the different trades and their employers in those trades? A. Jurisdictional matters?

XQ93. In any way. Do they determine, or do they, as a matter of practice, arbitrate or determine different disputes that arise?

Mr. Merritt: I object to any attempt to examine this witness as to the objects of this organization and its machinery, as attempting to vary the written constitution.

A. With the employers?

XQ94. Yes. A. If called upon they go in conference with the employers and take up jurisdictional disputes.

XQ95. Do they take up any disputes that arise between the employers and the laboring men with regard to the hours of labor, or what are called 3932
the grievances of the working men?

Mr. Merritt: Same objection.

A. That is, the board as a body?

XQ96. Yes. A. No, each individual union handles their own affairs with their own employers' association; the question of wages, hours and trade conditions.

XQ97. What do you mean by jurisdictional disputes? A. An iron worker might claim that a certain piece of work is his and the metal worker might claim it is his, and whichever employer has got it in his contract naturally he tries to do it, 3933
he does, and first thing you know there is a complaint registered and the board is called upon to settle the matter, which they do settle; they decide whose work it is.

XQ98. Do they settle a dispute, for instance, that might arise between the workingmen with regard to the use of material upon which the men are employed? A. The material?

XQ99. Yes. A. What class of material?

XQ100. Well, material which would be used in

any particular trade, as to whether it was union or non-union? A. No, they do not enter into these questions at all.

Mr. Merritt: I object to this as a matter that should be proven by the written records of this organization, and I move that the witness's answer be stricken out as incompetent, irrelevant and immaterial.

XQ101. Since your connection with this board as secretary have you ever known them to state or
3935 make a ruling that material, wood for example, or wood products, manufactured by any particular corporation or individual, should not be used by any employer?

Mr. Merrit: Objected to as a matter that can only be proven through the records of the Building Trades Council or by the Board of Business Agents.

A. No, they do not enter into those controversies at all on the unfair material or trim questions, as you would call it. They are not matters of dis-
3936 cussion at all; they are not permitted on the floor.

XQ102. Does this board ever attempt or has it in your experience, since you have been connected with it, attempt to prescribe the contracts which may be entered into between the employer and the working man the written contracts?

Mr. Merritt: Same objection.

A. No, not to my knowledge.

XQ103. Or the oral contracts for the construction of buildings or the parts of buildings?

Mr. Merritt: Same objection.

A. No.

XQ104. Now in this complaint in this action in which you are testifying it is charged generally against the members of the Joint District Council and the United Brotherhood of Carpenters that they have united with other people in a conspiracy to interfere with the sale and use of wood products or material made by the complainants. I will ask you if you know of any such conspiracy, and if so, can you state any facts concerning the same? 3938

Mr. Merritt: Same objection and on the further ground as calling for a conclusion.

A. No. I will state that I know of nothing of that sort nor have I ever received any request or anything of that nature from any of the industries to take it up. The board, in fact, would not take the matter up anyhow.

XQ105. And are these meetings of the board meetings which are held openly and without any attempt to conceal their meetings? A. Every Tuesday and Friday. Of course only members are allowed to attend those meetings. 3939

XQ106. Only members? A. Only members.

XQ107. Only members? A. Members of the board; he must be a business agent to be a member of it.

By Mr. Beattie—

XQ108. That is, of the consolidated Board of Business Agents? A. The United Board of Business Agents, yes. Nobody can go in that room but a member of that board.

3940 Roswell D. Tompkins, for Complainants—Cross.

By Mr. Maloney—

XQ109. Did you ever hear in that board any discussion or any scheme or device to prevent, or design to prevent, the Paine Lumber Company, Ltd., the Gould Manufacturing Company, the R. McMillen Company, the Morgan Company, the Lotham Cypress Company, Curtis & Yale Company, W. D. Crooks & Sons and Bristol Door & Lumber Company, or either or any of them, from selling wood products or material made by them or to cause any interference with the sale of their
3941 products to any of their customers? A. No, I never heard of any of those firms until I read it on a paper that I got.

XQ110. Did you, from your connection as an officer or member of either of these boards, ever hear the names of any of these companies whose names I have just read, until you heard of this suit? A. Never heard of any of them.

XQ111. Did you ever hear, or in the practice of the board, since your connection with it, ever know from your experience in that connection of any determination of this board or either of the
3942 boards or any part taken by either of the boards or any member of it, lookin gtoward the calling of any sympathetic strikes against wood products or material? A. No, not to my knowledge.

By Mr. Merritt—

RDQ112. What do you mean, not to your knowledge, that you have never heard of it? A. Never been brought into the board. Nothing was considered or acted on by the board.

By Mr. Maloney—

XQ113. I am speaking only of your connection with this board, I am not referring at all to your actions as a citizen outside. A. I understood it was from the carpenters, that they had requested that these matters be considered against these people here that you have mentioned.

XQ114. Yes. A. No, as a matter of that kind was never brought before the board.

XQ115. In this action I am representing members of this Joint District Council, the workingman's organization; Mr. Beattie is representing 3944
the same people; Mr. Mayer represents other parties, the manufacturing woodworkers and master carpenters; Mr. Merritt who has examined you in chief, represents the complainants. Now, what I want to know is, whether, while you have been connected with these boards in your official capacity you have ever known of any act of any of the boards or any of the members of the board, which comes within these charges to which I have referred, a conspiracy against these complainants.

Mr. Merritt: Objected to as calling for a conclusion. 3945

A. No, not at all.

XQ116. Have you attended the meetings of the board generally since their inception? A. I am the recording secretary; I record all the meetings, twice a week, Tuesdays and Fridays.

XQ117. Did any one of these complainant corporations or any representative or person purporting to be a representative of theirs, ever come before these boards, so far as you know, and com-

plain that there was any scheme or device to prevent them from using or selling their wood products or materials? A. Not to my knowledge.

XQ118. Or that the board or any party connected with it was engaged in any conspiracy to call sympathetic strikes against the use or sale of their material? A. No complaints or anything that I have any recollection of from any of them.

XQ119. Section 2 of this constitution and by-laws which has been offered in evilence states the objects of the association to be to protect the in-
3947 terests of affiliated organizations, to promote harmony in the building industry and to preserve their respective autonomy. Have you ever heard, in the discussions before this board, or have you from your experience as secretary and as a mem ber of that board, any knowoedge of any objects other than those specified in this constitution? A. They adhere strictly to those objects there.

XQ120. The principal object, then, of this association, as I understand it from this section, is to promote harmony in the building industry in the City of New York and vicinity?

3948 Mr. Merritt: I object to that as calling for a construction of the constitution and not including all of the objects as stated.

A. To promote harmony, to define jurisdiction and also to enter into mutual agreements with the employers.

XQ121. I said the principal object? A. The principal object, yes.

XQ122. To preserve their respective autonomy. Will you explain some acts of the boards that have taken place within your knowledge and experience

designed to carry out that object? A. The autonomy?

XQ123. Yes. A. Well, there has been more than one occasion where an employers' association has tried to specialize certain parts of the trade; in other words, to make an ornamental or plain section—I am speaking now of the plastering, as an example. A certain man will do this piece of work, another man the ceiling and another man the ornamental, specializing it into three different parts, where the plasterer is capable of doing any of those parts. That is autonomy. That is the 3950
autonomy of the mechanic, and the Building trades tries to see that the employer does not disintegrate that autonomy. Just because he happens to be a little faster on a piece of wall work, it does not say that his employer shall keep him on wall work all the time; he has got to get a share of his ceiling, or ornamental work, just as a man is picked up who is a good ornamental work man, he has to do his share of the other work.

XQ124. That is one of the means of promoting harmony. To promote the interests of all affiliated organizations. Can you give some practical 3951
illustration of what that means, in your experience? A. Well, to promote the interests of the affiliated trades; there are many new inventions and things like that brought into the market; that is, labor saving devices and things like that, and they are introduced into a trade. Probably they do not belong to that trade. I might illustrate for you further, that there is a certain invention brought into the market here for drilling holes in marble—an electric drill. The electricians claimed it because it was an electric drill; the

building trades have decided that the drilling of holes in marble is the work of the marble workers, and the marble cutter will drill those holes whether they are by electric drill, pneumatic pressure or anything else.

XQ125. That is a fair illustration of the meaning of that section of the objects? A. Yes, sir.

XQ126. To promote harmony in the building industry. Can you give some practical illustration of that? A. That is to keep the various trades from squabbling over whose nail this is, or how
3953 big a piece of iron that will be, or who will handle this or that. I can give you a close illustration of that. You take today, there is a jurisdictional fight between the sheet metal worker and the carpenters over kalamein or metal covered trim and door, which is quite an argument. The building trades has not as yet been able to define where the sheet metal worker stops off or the carpenter comes in, or anything else. That is something new that has been brought into the market within recent years. Metal doors and sash and like that. The object of the building trades has been to try and promote harmony, to try and use reason and
3954 bring around an adjustment where there won't be any fighting, quarreling or squabbling as to who will handle that work.

XQ127. That is, to define amongst these different crafts the particular work that properly belongs to such a craft? A. Yes, to place it within the craft that the majority thinks it belongs to.

By Mr. Mayer—

XQ128. To smooth over difficulties in trade jurisdictional fights? A. If it was not done there

would be a constant complaint and a grievance committee would have to sit on it night after night, to take testimony, and then probably the decision would be rendered, and one would agree to live up to it and the one it went against would not. 3955

By Mr. Maloney—

XQ129. Now these disputes such as you have described and given illustrations of are such as might arise amongst the different crafts and thereby result in disorganization and lack of harmony amongst them, as well as causing disputes between the particular craft and the employer? A. Not necessarily, because the complaint must be lfied in wsiting. It is then sent before a grievance committee. 3956

XQ130. What I mean is this: Suppose that these men who are plasterers have a dispute as to their right to do certain work it might cause, for instance, the men voluntarily leaving their employment because they did not think that they were put at the proper work, or that they had been deprived of work which properly belonged to them, and thereby caused not only disputes between them and their fellow workers in their craft, and cause inconvenience and trouble to their employer, is that right? A. That is a matter of personality between the employe and employer on that question. 3957

XQ131. That is one of the consequences that might follow and the object of harmonizing these disputes is to prevent such consequences? A. That is the idea. The employer would have a perfect right to make a complaint to the Board of Busi-

ness Agents or the Building Trades Council and to investigate it upon his request.

XQ132. So as to harmonize these disputes? A. And to find out where the blame lay.

XQ133a. And that would be a matter of convenience for him, to save any trouble that he might have amongst his employes? A. The quickest way of getting it settled.

XQ133. I show you this Complainants' Exhibit 37 which has been offered in evidence and which purports to be the constitution of the United
3959 Board of Business Agents, and I will ask you if that is a subordinate body within the other body to which we have been referring? A. That is a subordinate body; yes, sir.

XQ134. Can you give us practical illustrations of the working of the objects of this United Board ofBusiness Agents as contained in the preamble to this constitution? And state whether, in substance, the objects are the carrying out in a general way of the purposes and objects which we have read and gone over from the other constitution? A. Well, I might state that the preamble of that there is very plain in regard to the objects
3960 of it. They watch the interests of the various trades and alterations and new erections and everything, so as to do away with the competition that would arise if the interests were not watched as closely as they are.

XQ135. What does that competition mean? A. I will illustrate that to you. We have in this State what is known as a prevailing rate of wage law, State law, and you might say the labor organizers of this State, the labor organizations of this State, through their instrumentality in fight-

ing for years, got that law enforced in this State. It calls for a prevailing rate and it has been defined what that prevailing rate is. It means locality. Take the carpenters. His wage in New York City is $5 a day. In Buffalo it might be $3 —an addition of $2 here. Under the State law a contractor would not have any right to come here and work in New York with Buffalo carpenters for $3 a day when the wages here are $5. He would have to pay the carpenters $5 a day to work on that contract.

XQ136. So the object of that is, in a concrete way, to prevent one organization or body within this number of organizations composing the United States from taking contracts at prices varying from the prevailing rates of wages in the locality? A. I might state that there are a lot of non-union men, as we call them, that work not only here, but all over the State of New York, that at every opportunity they can get through an employer that does not pay any attention to organized labor, that they will go in on one of those, either city, municipal or state contract, and that is the time we get them off there as soon as we can; and we have the State law to back us up. We immediately see that the Commission of Labor of this State has the State law looked up to on that particular job. We take care of New York and the other places take care of their locality.

XQ137. And that object is to see that the State law is executed and carried into effect in the particular locality? A. That is it. I will give you a very good illustration. On the Municipal Building here there has been a contest between the general contractors, Thomson Starrett, and the gran-

3964 Roswell D. Tompkins, for Complainants—Cross.

ite cutters of this city over the granite work. I might state that there has been an application for injunction, it has been granted and dissolved, and I believe it is now in the courts again by the granite cutters of this State against the City of New York as defendants and Thomson-Starrett Company. The law distinctly states that that work, the granite work, that they should be paid the rate here, $5 a day. That work is being turned out in Quincy, Mass., at $3.50 a day, a difference of $1.50. The granite cutter has made his complaint here to
3965 the State Labor Commission that that is out of this State and that they have no right to bring that work in here under that $1.50 a day less, and that is still in the courts and is being handled, I believe, by Attorney Harris J. Schein.

XQ138. In cases of that sort the object of your organization is carried out when you bring the attention of the officials to the State law governing the prevailing rate of wages, and ask that that law be conformed to in the particular case? A. We use our efforts, too, to see that it is carried out.

By Mr. Mayer—

3966 XQ139. Mr. Tompkins, I read you into the record Section 3 of the constitution and by-laws of the New York Building Trades Council (Exhibit 36): "Membership.—(a)—This Council shall be composed of delegates from Joint District Councils, District Councils or Local Unions of National or International Trades affiliated with the A. F. of L., and engaged in the construction of Buildings, Bridges, Tunnels or any other structure in which craftsmen of the affiliated trades are employed, either in erection, alteration or repairs,

or manufacture of materials for same." I ask you whether A. F. of L. referred to in Section 3 means American Federation of Labor? A. It does. 3967

XQ140. And do you adhere strictly to that section of your constitution in controlling your membership? A. To the best of our ability we do.

XQ141. Nobody is admitted, to your knowledge, except delegates from these various labor organizations? A. They must be credentialed from the various unions to be recorded.

XQ142. There is absolutely no representation on your board from the employers at all? A. None at all. 3968

XQ143. Absolutely none? A. None.

XQ144. It is a union organization solely? A. Strictly.

XQ145. Composed of union delegates solely? A. Credentialed by the union that they represent, otherwise they would not be seated.

XQ145a. And no one is admited to your meetings except members? A. Only upon a question of the floor being granted it has to go before the body.

XQ146. And then he is practically a guest of the organization? A. No. I might state that there are times when employers do come before the body. 3969

XQ147. But they are not admitted to membership? A. They come before the body to get some question settled one way or the other and they retire as soon as their business is done.

XQ148. Some matter of trade jurisdiction, or something in which they are interested? A. Yes, when they want a quick answer on it.

XQ149. But they are not entitled in any sense to membership or a voice in the rulings of the organization? A. Nobody.

XQ150. Or to sit in the board's deliberations? A. Not unless a member, except on special privilege.

XQ151. But they are not entitled to be present at the deliberations; they come in to be heard and then retire? A. Yes.

XQ152. As far as the deliberations of the board are concerned, they have no voice in the matter
3971 absolutely? A. They are not allowed to sit in at the meetings.

XQ153. With respect to the Board of Business Agents, Section 22 says: "Board of Business Agents.—(a)—This Council shall establish in each Borough of New York City a Board of Business Agents of the affiliated trades, to enforce the trade rules of the Council." That is what you mean by the Board of Business Agents? A. That is the Board of Business Agents.

XQ154. And in that organization and the Board of Business Agents, which is a subordinate organization of the New York Building Trades Council,
3972 employers have no representation at all? A. No representation.

XQ159. Solely business agents? A. Solely business agents.

XQ156. And no outsider takes part in their deliberations at all, in any respect? A. Nobody at all, unless by special privilege. They must be a duly credentialed business agent to be in the room, to be recorded.

Roswell D. Tompkins, for Complainants—Cross. 3973

By Mr. Beattie—

XQ157. Has the Brotherhod of Carpenters or any of its officers ever made any complaint to either of your two associations regarding the firm of Irving & Casson, of Boston? A. No, I never heard of the name even.

XQ158. Never heard of the firm? A. No.

XQ159. Then there has never been any sympathetic strike called through either of your two associations in connection with Irving & Casson? A. No. I would have to issue a call if there was any complaint made on any job, but I don't re- 3974
member the name.

XQ160. Could there be any sympathetic strike called as against that firm except through the United Board of Business Agents? A. It must be filed on a grievance blank, if there was any called on any of their work, or anyone else, but there is no such complaint ever been filed to my knowledge. They are all matters of record.

XQ161. There is no way to have a strike called except through that board, is there? A. The constitution is very plain.

XQ162. The business agents themselves cannot call these sympathetic strikes? A. The grievance 3975
must be filed in the board, a committee of the business agents, only those that have men on the job are allowed to go on that job as a committee. For instance, if there was not a plumber or steamfitter on it, the business agents of the plumbers and steamfitters will have nothing to do with it. They then will take up the complaint as it has been filed with the board and determine whether it is non-union conditions, whether the men are non-union men or whatever the nplaint might be.

XQ163. Has any complaint been filed by any of

the officers of the Brotherhood of Carpenters or the Brotherhood of Carpenters against any of the complainants in this action? A. No.

XQ164. Does either of those two associations of yours entertain any complaints regarding non-union trim? A. No, we do not, not considered at all, not a question of complaint.

XQ165. And you would not call and do not call sympathetic strikes of other trades in connection with non-union trim? A. They would not be permitted to put a complaint before the board; that
3977 is, to fill out a complaint, to file it, they would not be allowed to do it.

By Mr. Maloney—

XQ166. Would the same answers which you made to me in answer to my examination of you in this Paine Lumber Company and others case, apply in the case of Irving & Casson? We are taking your examination in both cases. Do these same answers apply? A. Yes, to any of them, the same answers. The same answers will apply.

Re-direct Examination by Mr. Merritt.

3978 RDQ167. Strikes of different trades are sometimes called through your organization? A. No. the organization does not call the strike. The trades on the job, the men on the job, call the strike.

RDQ168. According to the provisions of your organization? A. I will explain that, and can illustrate it a great deal quicker than in any other way. A grievance is first filed with me, either at the board meeting or in between the meetings. So when the grievance is filed by the carpenter he must specify the nature of the grievance—nature

of grievance—it is a printed blank—unfair conditions — non-union conditions — non-payment of wages—or whatever the grievance shall be. He then specifies the location of the job, which is on the printed form—Location of Job—and then the trades that he wants on that job, or a committee of busines agents. Then he only specifies what trades are on the job—plumber, steamfitter, electrician, or whatever it is—and requests a committee of those trades or the business agents of those trades to meet him next morning at 10 o'clock. I will send that notice out. That is an official com- 3980
plaint.

RXQ168a. That is an official complaint through you as secretary? A. Yes, sir, as secretary, which the by-laws provide. Whether it is on a board day it is filed or in between, but it does not officially become the property of the board until the following meeting if it is filed in between meetings, then it is numbered and goes on record. Then the committee proceeds on that job there and takes up that complaint, the nature of it, and then they take a vote on the job. That is the only place where a vote can be taken, by the business agent of the 3981
men on the job. If the majority decide that the complaint is a just complaint, then the men on the job are told that there is a complaint on the job and that they have decided that it is a just complaint and that they are to leave the job. I might state further, as soon as the majority of the trades on the job decide that the complaint is a just complaint, then I am immediately notified, I am, that that job is on strike, or will be on strike in the morning by the trades on that job and I have to send a notice out then to the other trades that

3982 R. D. Tompkins, for Complainants—Re-direct.

such and such a job is on strike, so that they won't start in to do work until an adjustment has been made on the job.

RDQ169. Take as an illustration the Vanderbilt Hotel; was that done in that way when that strike took place? A. No, the Vanderbilt Hotel was brought about by the locking out of the marble cutters by the employers, and then there were men put in there, non-union men, imported from other cities under police protection; then the union mechanics on the job that belong here to New York
3983 City, they quit that job on those conditions. They would not work there with these people from out of town. They quit.

RDQ170. Wasn't there anything taken up in connection with your organization? A. After the men had left the job then it was reported to the office that the Vanderbilt Hotel was on strike for all trades.

RDQ171. Now taking Section 2 of the constitution of the United Board of Business Agents, general rules: That any organization connected with the board in whose interest a strike has been ordered shall not be required to pay strike money
3984 to the members of other organizations on the board—is that the general rule? A. That is what I am saying, that if the vote is taken on the job, if it decided by the trades that are on the job to strike that job, then that job is truck. Now that clause there means that, for instance, I am a painter and you, Mr. Merritt, are a carpenter, and ask me to go out and I go out, I cannot look to you or your organization to pay me for the time lost.

RDQ172. If the carpenters have a grievance on

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a job and through the machinery you have been telling us about, arrange so that a strike takes place of the other trades on that building, the striking carpenters can only get their strike pay from the Carpenters' Association?

Mr. Maloney: I object to the form of the question as stating a conclusion, and a characterization of the evidence given by the witness, which is not borne out by the testimony, and I move to strike it out.

A. That is right. 3986

RDQ173. Now, have you any reason to vary any of the provisions or purposes of these two constitutions, Exhibits 36 and 37? A. No they are adhered to as closely as they possibly can be. The body itself will see that they are strictly adhered to as close as they can observe them.

RDQ174. And among other things, the object is to maintain union conditions on the various buildings, isn't it? A. Union conditions on all buildings.

RDQ175. That is the employment of union men only on the building? A. And to live up to the agreements and things that have been entered into with the employers. I might explain that. 3987

RDQ176. Wait just a moment. I want to get at this in particular. These provisons, for instance, Sections 36 and 37 of the New York Building Trades Council, concerning the employment of non-union men, and so forth, those provisions are observed as far as possible?

Mr. Maloney: I would ask you to bear in mind what you wanted to say when counsel

3988 R. D. Tompkins, for Complainants—Re-direct.

interrupted you a moment ago, so that we may have you give that explanation in answer to the preceding question.

A. They are; yes, sir.

RDQ177. Now go ahead and say it. I only wanted to go ahead with the other question. A. While an employer might enter into an agreement, or an employers' association, to pay the men so much per day and to work for so many hours per day, they do not always live up to it. A man will
3989 be found probably where he is compelled through the employer or the foreman to put in half an hour or three-quarters extra every day, and if he looks for over pay for it he does not get it; he is told to take what he is getting or he will be laid off. That man has a perfect right to file a complaint. We will take that matter up and if we find it is so, we compel that employer to live up to that trade agreement, where he is to get $5 and to work eight hours; every hour or half hour he has to work over we will see that he gets paid for it.

RDQ178. And will see that the other trades——
A. We will call a meeting of the Employers' Asso-
3990 ciation. If we could not adjust it with you, for instance, Mr. Merritt, we will take it up with the Employers' Association, and they will compel you to live up to that trade agreement, because it is ratified by them.

RDQ179. Do you have an agreement with the Employers' Association? A. No, each individual trade association has, and 95 per cent of them are ratified by the Building Trades Employers' Association.

RDQ180. And you will see through your organ-

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ization that the special trade agreements between the employers and the union in that trade are lived up to and enforced? A. Yes. We have copies of them on file and if we find it is a violation on the employers' side of the agreemnt entered into we will then take the matter up with that employer, and if he does not give redress that is asked for we will take a complaint to the Building Trades Employers' Association.

RDQ181. Speaking of this arrangement for strikes of different trades when it is necessary to enforce a demand, I suppose that comes under 3992
that part of your constiution which says "To protect the interests of all affiliated organizations"? A. Yes, there is a section in the Board of Business Agents which covers that, of how the procedure is.

RDQ182. What I am reading now is the Constitution of the New York Building Trades Council and its objects, and it says: "To protect the interests of all affiliated organizations." Through the Board of Business Agents.

RDQ183. And through the concerted action on the part of the trades interested in any buildings that is necessary? A. The trades on the building.

RDQ184. After the complaint has been filed 3993
with you, and so forth? A. Now, don't get the Building Trades Council confused with the Board of Business Agents. The Building Trades Council cannot order a strike. That will come from the Board of Business Agents. The Building Trades Council can refer a complaint that might necessitate a strike being called, but it is the business agents that will go on that job and determine whether there shall be a strike or not.

RDQ185. Now this Board of Business Agents is

formed primarily to carry out the purposes and objects of the New York Building Trades Council? A. To carry out all assignments made to them. The Council will make assignments to them, that is, in reference to complaints. The Board is really the investigator of complaints that are filed with the Council and then the Board assigns——

RDQ186. Well, it is the Board of Business Agents that files the complaint? A. No, the affiliated organization can file it. For instance, a
3995 painter can file a general complaint in the Building Trades Council. The Building Trades Council will refer that complaint to the Board of Business Agents. The Business Agents will then proceed to the job and investigate it.

RDQ187. Then the Council refers it really to the business agents on the particular job where the trouble exists? The only people who come on the job are the business agents of the trades working on the job. If there are seven trades, there will be seven business agents, no more.

RDQ188. And then if that group of business agents so vote, it is reported back to you? A. If
3996 the majority of them, four out of the seven, decide that the complaint is just, and that the men should be removed, then the men are notified that there is a just complaint and the men quit the premises.

RDQ189. And you give that notice? A. And then they notify me that the job is on strike, and I notify the other trades that the job is officially recorded on strike.

RDQ190. How strictly are you able to enforce the rule in regard to the employment of non-union

men on buildings in Manhattan? A. Well, they enforce it pretty good, they do.

RDQ191. And if non-union men are employed, you simply put this machinery that you have testified about, in motion? A. The trades on the job are notified that there are non-union men there on the job, and nine times out of ten they will be taken off of the job, removed off the job by the general contractor or something.

Mr. Mayer: I move to strike out all this testimony given by this witness with respect to the machinery so-called put in operation, as designated by Mr. Merritt, on the ground that it is incompetent, irrelevant and immaterial. 3998

Mr. Beattie: And on the further ground that it has been shown that the machinery has never been put in operation against any of these complainants.

Mr. Maloney: I move further to strike it out upon the ground that the questions are so framed as to attempt to characterize unjustly the testimony of the witness, and that the witness has been attempting to testify to facts and has been interrupted by counsel for the complainants so as to bring about an answer to the questions so framed. 3999

RDQ192. Now, Mr. Tompkins, a complaint comes in that non-union men are employed upon a particular job. Now the only information that would come to your attention would be the name of the job and the location, the name of the contractor.

Mr. Mayer: Objected to as incompetent, ir-

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relevant and immaterial, as being a hypothetical question, in no way affecting the complainants in this case or affecting the Brotherhood of Carpenters or the Master Carpenters or the members of the Manufacturing Woodworkers Association, or any of them.

Mr. Maloney: Same objection.

A. No.

RDQ192a. Tell me just what information comes with the complaint.

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Mr. Mayer: Objected to. It does not state any concrete example, it does not call for any, it calls for an answer to a hypothetical question, and no facts stated.

A. A complaint is filed on a printed form, which is furnished by me. They cannot get them anywhere else. The complaint is filed, filled out and signed. There is the date, nature of grievance, location of job, trades working on job; time sent; complaint; reported lost, withdrawn or settled, O. K. That is the printed form. And numbered. That is the printed form. It must be filled out, and that is the only way that they are received.

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RDQ193: Now, if there were non-union carpenters employed on a job, and the complaint was non-union carpenters, there would be nothing to indicate where the woodwork came from, would there?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial, in no way affecting the issues in this case.

A. No. It would say "non-union men," it

would not say non-union carpenters.

RDQ194. But it would give the name—— A. Of the business agent filing the complaint, of the industry he represents. That would speak for the non-union conditions, that it was in that industry.

RDQ195. It ordinarily means that the non-union men were employed in the industry of the person who made the complaint. A. Certainly.

RDQ196. You say business agents canont call a sympathetic strike except you would know of it. You do not mean that they might not individually do it on buildings without reporting it to you, do you?

Mr. Maloney: I object to that as containing a statement not borne out by the testimony of the witness. He did not say that they did not call strikes except, so as to indicate that they did ever call strikes at all. Give us the facts only.

RDQ197. What I am getting at is this: I understood you to testify that no business agents had called sympathetic strikes against certain of those parties whom they have named. Now, they might call them without your knowing about it, entirely independent of the Council? A. They would not be officially recognized, if we have no record about it.

RDQ198. It would be unofficial? A. Yes, and we would not know anything about it.

RDQ199. It would not have the support of your organization? A. Not recognized at all.

RDQ200. And the only strikes you were referring to were strikes that were official? A.

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There is a regular form that has got to be followed out to make it official.

RDQ201. What did you mean when you said that the carpenters, or anyone, would not be allowed to file a complaint against non-union material? A. Well, it is not a recognized complaint, that is, unfair material, or unfair trim. That is a question that cannot be taken up in the Board or even in the Council, because there is hardly an industry but what the manufacture of the materials that is used, but what 95% of them are not
4007 under organized conditions. For instance, I am a tile setter by trade, I do not believe that there is a union tile factory in the United States, or any other country, but still, as a union tile layer, I still set them.

RDQ202. You mean that there is so much non-union material used here—— A. For the Board of Business Agents to take and entertain a complaint against it because if it was done for the carpenters it could be done for the tile layers, it could be done for the iron worker, the electrician, they could all bring in complaints of non-union materials and things if they wanted to do it. It is
4008 not a question of a grievance, it is never considered at all.

RDQ203. If it is handled at all, it is handled in the particular trade? A. Locally, in the individual trade, not in the way of the Council or the Board; they would not discuss it at all, would not allow it to be taken up.

RDQ204. The only thing you would take up in that question would be the non-union men? A. In the construction of tunnels or subways, and so forth, non-union conditions.

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RDQ205. You mean non-union men? A. Or a violation of an agreement between an employer and the men on the job, you understand. I explained it before. We find that in many cases a violation of the trade agreement by an employer himself on a particular job.

RDQ205a. What is the address of your organization, or its headquarters? A. 154 East 54th Street.

RDQ206. You referred to an organization of alteration carpenters; is that a union organization? A. They are an organization chartered, I 4010
understand, from the Hebrew Trades of this city, Affiliated Hebrew Trades, I believe they call themselves. They have their headquarters on the east side. There are about 3,000 members of the alteration carpenters, because we have many complaints that come in the office about the members of the alteration carpenters and, of course, we don't handle them there, they don't belong to us.

RDQ206a. Are they engaged simply in the erection of buildings, or do they work on the materials in factories? A. I could give you a pretty good story of them, if you wanted it, of the experience I have had with their representative right in the 4011
office.

RDQ207. I don't want to go into it in any——
A. It won't take five minutes. I was visited in the office about three years ago by a party that claimed he was the business agent of the alteration carpenters; wanted to know what it would cost to take up membership with the Building Trades. I asked who they were chartered by, and he said the United Hebrew Trades, I believe; I told him that unless he was chartered by the A. F.

of L., or some international union, it would be no use applying for membership. I asked what wages they got. At the time the New York carpenters was $4.80 a day, I believe, before they went to the $5. He stated that they got $3 a day, and some of them he said got only $2 a day. That interested me right away, how they could have two scales of wages. Here is the information as I got it, and I believe it is right. He stated that a $2 man was a man that could make packing boxes in the trade school, and a $3 man was a man that
4013 could go into a cigar box factory and turn out a cigar box, the difference between rough work and finished work, and that there were schools (he named them on the east side)—the Hearst Trade School and others—where these men could work at anything they wanted in the day time, car conductors or drivers, or anything else, and in the night time got this free tuition as long as they were of Hebrew origin or Jewish origin. They had a $2 and $3 scale. Only Monday or Sunday of this week I saw in the paper where the alteration carpenters have gotten up a strike for an increase for $5—from $4 to $5, the same as the Gen-
4014 tile carpenters that are organized. These are the same people. 3,100 or 3,200 of them. That does not interest us, because——

RDQ208. They work in factories? A. Yes. And they work on these store front alterations. They are very clannish, wherever a Jewish concern is getting alterations made they patronize those people. They are very clannish on that. So they must have got from the $3 for the cigar box maker up to $4, according to the way I read it.

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They handle almost all these new store fronts and alterations in tenement houses.

RDQ209. They do not do any of the large building operations? A. No, they do not—not on any of the large operations, because these are handled by general contractors who employ the best mechanics.

RDQ210. Then I take it you do not regard these Hebrews as as good mechanics as those connected with your Council? A. We do not question their mechanical ability or anything at all, we never do on any industry. They work under the wages, and 4016
that would debar them right away. There is a prevailing rate set by the employer and employee in that industry.

By Mr. Maloney—

RXQ211. You have a great many Hebrew carpenters in the United Carpenters? A. They get their $5 a day, they are members of the Carpenters.

By Mr. Merritt—

RDQ212. I was trying to get at what you mean. 4017
A. This is a distinct body formed by what is known as the Hebrew Trades. They have iron workers, plumbers, even painter's helpers for $1 a day; painters for $2; you can read their advertisements in the *World* every morning where there are painters wanted.

RDQ213. I wanted to get at what you meant when you said that big buildings were done by general contractors who required the best me-

chanics? A. That is the members of the trades that are affiliated with us.

RDQ214. Then the best mechanics are affiliated with your organization? A. Yes. I can state that Fuller, Thompson-Starrett, when they want twenty or thirty men, they 'phone to me, and I place it in the office where it belongs. If they telephone to me that they want two plumbers, ten carpenters, three steamfitters and such and such, on a job to-morrow morning, I place them right around to the different offices those trades are
4019 represented in, and the men are sent on that job. Do the business through the office.

By Mr. Maloney—

RXQ215. These alteration carpenters are really men of less experience engaged in work, that is in a stage of alteration and not constructive work? A. Well, I don't know; I am not much of a judge of the carpentry end of it. They are not a skilled mechanics, because if any of them did become a member of the union, nine times out of ten it would be some months before they can get their
4020 hand into the practical end of it, that is, the wages that are being paid in the Brotherhood end of it. There are more skilled mechanics in that than in the other. When a man becomes a member of the Brotherhood it does not give him a dollar a day more because he has joined. If his work is not up to the standard he won't get employment, no matter how many cards he carires of the Brotherhood of Carpenters.

By Mr. Beattie—

RXQ216. A large part of the work of these alteration carpenters is work that the Brotherhood of Carpenters ordinarily do, isn't it? A. If the alteration carpenter was not in existence, the Brotherhood of Carpenters would do it all.

RXQ217. So they are in a sense rivals of the Brotherhood of Carpenters? A. They are what is classified as a dual or hostile organization. They work cheap, the hours are longer. They work ten hours a day they do, they must be, according to the latest reports, getting forty cents an hour, that is what I read in either Sunday's 4022
or Monday's paper.

RXQ218. Mr. Merritt spoke of official sympathetic strikes, evidently intending to infer that there were unofficial sympathetic strikes. You do not know of any such things as unofficial sympathetic strikes among your trade? A. That is an official strike—that will have to be complied with by the Constitution; there is no such thing as an unofficial sympathetic strike. I might state that no trade can call, outside of the office, a strike; it must come through the office, the filing of the complaint must. 4023

RXQ219. With you? A. If it is not on file the complaint is not recognized.

RXQ220. And all the organizations in your two associations cannot call sympathetic strikes except through the form and machinery you spoke of?

Mr. Merritt: I object to the word "cannot" as calling for a conclusion.

RXQ221. Well, they do not.

A. They do not.

By Mr. Merritt—

RDQ222. They do not, as far as you know? A. I know that they do not, because they cannot obtain any recognition through the Building Trades Council collectively if they do.

RDQ223. You are not wililng to testify that there are not instances where more than one trade has been called off a builidng without referring the matter to the Building Trades Council? A. Well, that is a question I would not answer, because it would be probably of such short duration that it would not enter in at all. If it was over
4025 twenty-four hours duration we would know something about it and start to investigate it right away.

By Mr. Maloney—

RXQ224. As a matter of fact, you do not call sympathetic strikes, either officially or unofficially? A. We only call them, they are a committee of the trades that go to the job.

RXQ225. You follow this method of obtaining the information, and bringing it before the Business Agents of the particular trades which are engaged on the particular jobs, so that they may
4026 dispose of it for themselves? A. They go on the job and decide whether the men shall go out or not. If a strike takes place, then they notify the office that such and such a job is on strike, then I list it as an official strike on that job. That is, after it is reported at the office.

RXQ226. For example, a carpenter or painter might claim that he was not being treated fairly under the agreement between the employer and the carpenter, and file that complaint with your Council, and it would be referred to the Business

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Agents, and the Business Agents would make an investigation of that, and then if it appeared that the carpenter was compelled to work overtime without payment, that would be considered a grievance—it would be referred to the Business Agents, and they would strike or not in accordance with whether relief was granted or not? A. That vote has to be taken on the job.

By Mr. Beattie—

RXQ227. Now there was no sympathetic strike called on the Rector Building in connection with trim, was there? A. No complaint filed. 4028

RXQ228. Could not be? A. It would not be entertained, no. I do not believe I had a complaint against the building on anything, that is, from any of the industries on anything.

RXQ229. And there was no sympathetic strike and could not be in connection with trim on the Vanderbilt Hotel? A. No. There was no question on the Vanderbilt Hotel about the trim or anything at all.

RXQ230. Those two buildings have figured in the evidence; that is why I ask you.

4029

By Mr. Maloney—

RXQ231. Applying it in the Irving & Casson case, was there any sympathetic strike called by your Council in connection with the work on the Cathedral of St. John the Divine? A. Never had a complaint against it.

Subscribed and sworn to before me this day of , 1912

4030 Edward Van Marter, for Complainants—Direct.

Counsel for the defendant, members of the Manufacturing Woodworkers' Association and Master Carpenters' Association, who have appeared in this case by Eidlitz & Hulse and William Butler, waive service of notice of depositions taken of William O'Kane at Bristol, Virginia; and it is stipulated that the counsel for the defendants' objections taken on said deposition shall inure to the defendants represented by Eidlitz & Hulse and William Butler.

4031 Hearing adjourned to Thursday, March 7, 1912, 2 P. M.

PAINE vs. NEAL.

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. MAYER,
MR. MALONEY,
4032 and
MR. BEATTIE.

EDWARD VAN MARTER, a witness called on behalf of Complainants, being duly sworn, testified as follows:

Q1. Are you connected wth the Hubbell Hardwood Door Company, of New Rochelle? A. I am.

Q2. In what capacity? A. Superintendent.

Q3. That is a corporation engaged in the manu-

facturing and selling of doors, sash, wood trim, etc.? A. Yes, sir.

Q4. How long have they been so engaged? A. Why, I think something like eight years, in New Rochelle.

Q5. And you have been connected with them? A. I have not been with them only about one year.

Q6. Now, that concern in the course of its business purchased merchandise from the Paine Lumber Company, Limited, does it not? A. Part of it, yes.

Q7. It has purchased? A. Part of it; doors, 4034
principally.

Q8. How many people are employed in the manufacturing end of the Hubbell Hardwood Door Company? A. Well, when they are running full time I presume some twenty-five or something like that, twenty-five or thirty, in the shop itself I mean. We have probably eighteen or twenty in the warerooms and other places around through, but I mean in the shop itself. We have quite an office staff.

Q9. Now, in taking contracts from builders to furnish materials from other manufacturers in order to complete the contracts, do you not? A. 4035
Oh, very often; we buy materials from all over the country.

Q10. Part of the materials would be manufactured in your own mill and part of them by other manufacturers from whom you buy? A. Yes, sir.

Q11. Do you operate what is known as a union shop? A. Positively so. We run the union rate of hours, and we pay the union rate of wage according to the schedule laid down by the Brotherhood of Carpenters for the District of New Ro-

chelle, which is fifty hours a week, and in fact, we pay above the rate of wage that the union demands, and have been doing so for a long time.

Q12. The Hubbell Hardwood Door Company made a contract for the sale of certain doors, etc., in April, 1911, with the Happel Structural Iron Works Company, did it not? A. Yes, sir; Adam Happel.

Q13. And do you know approximately the amount of that contract? A. Well, we furnished all the sash, doors, trim, etc., and as near as I
4037 can remember it was in the neighborhood of $6,000.

Q14. Do you know the location of the buildings for which these materials were furnished? A. It was on the junction of Tiffany and 167th, 169th, a sort of triangular corner.

Mr. Maloney: I move to strike out all the Happel testimony, April, 1911, as relating to something occurring subsequent to the commencement of this action, not pleaded, and as an attempt to create a new cause of action, not within the issues, in no way binding upon the defendants in this case.

4038

Q15. Did you ever have any conversation with one William Simpson concerning the purchase of wood materials by the Hubbell Hardwood Door Company? A. I know Mr. Simpson. I have met him at different times.

Q16. Did you have any conversation with him on this subject? In regard to the purchase of wood materials by your company? A. He came to our office some two or three times.

Q17. And did he discuss the question of where

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the Hubbell Hardwood Company should or had been purchasing doors, and so forth? A. He did.

Q18. When did he first come to you? Was it before the contract was made with the Adam Happel job? A. No, sir; it was after the contract had been awarded.

Q19. Was it before any deliveries had been made on this contract? A. Well, I think it was surely after the standing trim or the beginning of delivery had been made.

Q20. I will ask you concerning any conversations which you may have had with William Simpson at this time concerning this matter? 4040

Mr. Mayer: I object on the ground that it is incompetent, irrelevant and immaterial, being after the complaint served in this matter, as not binding in any wise to show conspiracy as pleaded in the complaint, not within the issues.

Mr. Maloney: Same objection, and I move to strike out on the same grounds all that has been given on that subject.

A. He wanted us to buy doors made by a union concern, claiming that the doors he thought we were going to deliver on the job were not union made doors. He wanted to know if we would not write him a letter or tell him who or what concern we were going to purchase the doors from on the Happel job. 4041

Mr. Maloney: I move to strike that answer out as a statement of conclusions and not purporting to state what was said.

Q21. Is that what he stated to you?

Mr. Maloney: I object to that question as leading.

A. Yes.

Q22. Was any mention made of any manufacturer from whom you were purchasing?

Mr. Maloney: Objected to as leading, incompetent, irrelevant and immaterial, calling for conclusions, not asking for what was

4043 said.

Q23. At this time, I mean? A. That he understood we were using a non-union door.

Q24. Did he not mention any names of any manufacturers? A. I don't recall that he did, not a particular manufacturer.

Q25. You had more than one conversation with this man Simpson at or about this time? A. I think I had two conversations with him at the office and one or two at the building.

Q26. Well, I will ask you if the materials supplied by the Hubbell Hardwood Door Company

4044 for the Happel job were all made by the Hubbell Hardwood Door Company? A. They were all furnished by us.

Q27. Did you purchase some of them from another manufacturer? A. I believe that some of it was purchased from other manufacturers? Yes.

Q28. From what manufacturer?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

Mr. Beattie: Same objection.

 4045

A. I don't know.

Q29. Can you state whether or not the Hubbell Hardwood Door Company furnished the doors or manufactured the doors which they had furnished for that Happel job? A. No, sir; the Hubbell Hardwood Door Company bought the doors for the Happel job.

Q30. Who did they buy them from?

Mr. Mayer: Same objection.

A. I understand from the Paine Lumber Company. 4046

Mr. Maloney: I move to strike that out, as not appearing to be within the witness's knowledge and understanding.

Q31. Do you know whether or not the doors furnished by the Hubbell Hardwood Company for this Happel job were purchased from the Paine Lumber Company? A. Yes, sir; they were the Kore-lock door made by the Paine Lumber Company.

Q32. Now, up to the time that you had this first conversation with William Simpson, had any of these doors been delivered on this job? A. No, sir. 4047

Q33. But certain trim had, you say? A. Practically all the trim was delivered previous to any doors whatever being delivered.

Q34. Was all the material furnished for this Happel job manufactured by the Hubbell Hardwood Door Company with the exception of the doors? A. Some parts of it was, some parts were purchased——

Q35. From——? A. From different concerns.

Q36. Now, you had further conversations with this man William Simpson. Did he always come alone? A. No. He used to travel with a man known as his side partner, I think one Dalton.

Q37. You are sure of that name? A. It is either one or the other.

Q38. Will you state whether the name was not Donlan? A. Somewhat very similar to that; I would know the man if I saw him, but I am not positive of just exactly his name. It was Don-
4049 lan or some such name as that. It was not Donovan.

Q39. Did this man come with him at one of those interviews you had with William Simpson? A. To the office, yes.

Q40. To the interview you had at the office of the Hubbell Hardwood Door Company. This man Donlan, or Dalton, whatever his name was, was present? A. Yes, sir. It is Donlan or Dalton or some such name. It was not Donovan, I know.

Q41. Was this man Simpson accompanied by anyone else at any of these other interviews which
4050 you had? A. Yes, this man I referred to and another man by the name of McLaughlin was with him at one interview at the office. He is representative of the New Rochelle organization.

Mr. Beattie: I ask that the "representative of the New Rochelle Association" be stricken out.

Q42. Was he introduced to you by William Simpson—McLaughlin? A. No, sir; I know the man.

 4051

Q43. How long have you known him? A. Possibly a year. Six months or a year, somewhere about that.

Q44. How do you know he was a representative of the New Rochelle local union? A. He used to visit the shop, to see if there were any new men employed there, or that did not have union cards, at different times.

Q45. Now, will you give me what conversation took place at any of these meetings with William Simpson?

Mr. Maloney: Fix the time and place, please. 4052

Q46. Try and fix the time and place as far as you are able to. At one meeting you talked with McLaughlin and William Simpson? A. Yes.

Q47. Where was that? A. That was at the office and Simpson insisted, came up and demanded to know where the material was coming from being delivered on the job.

Q48. To what job? A. On the Happel job. He had McLaughlin with him. I took him into the shipping department office, showed him the shop orders where the stuff was manufactured in our factory and the shipping department, from there into the warerooms and from the warerooms out, and convinced him, and he went away satisfied that the material was made right in our own shop. That was one visit. 4053

Q49. Was this the second visit? A. Either the second or the third. I think Mr. Simpson was up there three different times, if my memory serves me right.

Q50. You think he was at the office of the

Hubbell Hardwood Door Company three times? A. Yes, sir.

Q51. And you talked with him three different times? A. I met him each time he was there.

Q52. Is that all of the conversation that you recall at these three meetings? A. At that time.

Q53. That is all you recall of the three meetings at that time? A. Well, his object in coming up there was to——

Mr. Mayer: I object to what his object was.

4055 Q54. Their objection is based on the fact that you do not state what was said. We want you to give just what his conversation was. A. He insisted on knowing where we were going to purchase the doors that were going on the Happel job, stating that he had no objection to our trim, he had made investigations and found out that it was under union regulations as far as the New Rochelle part was concerned, and that he would waive that, but he insisted on knowing where the doors were coming from.

Q55. Did you tell him where the doors were coming from, on any of these visits? A. We did
4056 not. We simply refused to answer his question. In other words, we told him we did not know just where the doors would come from which were going on the Happel job, which we did not at the time.

Q56. How long after this last visit from Simpson concerning which you have testified was it that the doors were delivered on the Happel job? A. After the trim had all been put on the job. The job was practically completed, less the doors.

Q57. Could you give us the date approximately

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of when this delivery was made? A. I could not very well, no; but I think it was along late in the summer, possibly in August, I don't just recall the date, it has been too long ago. It was after the carpenter work had been practically completed that they asked for the doors and we shipped them down in bulk, in fact, we sent all the 350 odd doors, whatever they were, down there in two or three days.

Q58. Did you have any conversation at or about this time with John T. Donovan? A. I met John Donovan.

4058

Q59. On the job, after the doors had been delivered?

Mr. Maloney: I move to strike that out; he does not state whether he did or did not have conversation.

The Witness: I did have a conversation with him on the job.

Q60. And your first meeting with him was on the job? A. On the Happel job, the first meeting in reference to this job. I have known Donovan for several years.

4059

Q61. When you met him there on the Happel job, were the carpenters working on the job? A. The carpenters had quit work.

Q62. Were they around the job? A. Yes.

Q63. Was this the first time you had visited that job? A. No; I visited it several times previous to that.

Q64. Had you seen the carpenters working on the job previous to that? A. Yes, sir.

Q65. Have you any idea how many carpenters

there were working on the job? A. No, I have not, no.

Q66. How long was it between the time you visited the job and saw the carpenters working there and the time you met Donovan and saw the carpenters had quit work? A. I think it was only one day that intervened.

Q67. And had the doors been delivered prior to that time? A. The doors were delivered previous to my visit to the job when I met Donovan.

Q68. How long previous to that time? A. Two
4061 days, I believe, before.

Q69. Then, as I understand it, a day or two prior to the time you met Donovan and saw the carpenters quit work you had visited the job and saw the carpenters at work? A. The carpenters were at work right up to the time the doors were delivered.

Q70. Now, give me your conversation with Donovan on the job?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial, not within the issues as framed by the pleadings in this case, in no
4062 way binding on any of the defendants, not tending to prove any conspiracy pleaded.

Mr. Maloney: Same objection. I move to strike out all the testimony along this line on the same ground.

A. I asked Donovan why he had stopped the carpenters working. I don't know just what answer he made. I went over to a saloon on the corner, in the presence of another delegate whose name I do not recall and some other people, and

 4063

I told him that I was afraid he was going to get himself in trouble by ordering this strike. He asked me why. I told him that I had been informed that certain people had been getting hush money and that if he ordered this strike he was liable to be the goat of this injunction which had just been passed. The conversation continued for some little time and he finally said that he did not purpose to get the worst of it. Went back over to the building and asked me to wait for him, and within an hour the carpenters went to work, hoisting the doors.

4064

Q71. Did you state to what injunction you were referring? A. I referred to the Paine Lumber Company injunction.

Q72. Did you so state to him? A. I did, yes.

Q73. Was this all the conversation that you recall now? A. That was the import of it.

Q74. Wasn't anything stated between you as to why the men had quit work? A. Quit work because they were ordered, as I understood it, to quit work because they did not want them to hang the doors, that was all.

By Mr. Maloney: He stated previously only what he said to Donovan and stated he did not know what Donovan answered; I move to strike it out.

4065

Q75. I will ask you if that is what Donovan stated to you as to the reason the men were ordered out?

Mr. Maloney: He already stated he did not know what the man had answered.

A. Why, Donovan said that if other people

4066 Edward Van Marter, for Complainants—Direct.
had been getting money for to let the doors be hung, he did not purpose to keep them from being hung. He thought he was entitled to a share of it, but he did not purpose to be made a goat of.

Mr. Maloney: I move to strike out the answer as not responsive to the question. He was asked if Donovan had stated to him what the witness previously said he understood. He has not yet answered the question. He previously testified he did not know what Donovan answered in response to the wit-
4067 ness's question.

Q76. Now, I will ask you if, prior to this last conversation with Donovan, you had any conversation with William Simpson in which this injunction was mentioned? A. I did, on the job.

Mr. Maloney: What job?
A. On the Happel job.

Q77. How long prior to this conversation with Donovan was it that you had this conversation concerning the injunction with Simpson? A. Well, it was possibly two weeks ago. It was pre-
4068 vious to the time the doors were delivered. He asked me who we were getting the doors from for that job. I replied that I did not know. He said: "I suppose you are going to send the doors down there that you have in stock." I asked him if he had received word from Mr. Hubbell what he intended doing on it; he said he had not. I called his attention to the fact that there was an injunction out against their interfering with the Paine doors. He said well, he thought there were

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a whole lot of people would be glad to go to State Prison for the sake of freeing girls and children from working in the factory.

Q78. Well, was it stated by either you or Mr. Simpson at this conversation as to who manufactured the doors you had in stock? A. No. The name I do not think was mentioned. It was understood by all concerned that we had the Paine doors. They were afraid we intended putting them on the job.

Mr. Maloney: I move to strike out "it was understood by all concerned that we had the Paine door." 4070

Q79. Did the conversation concerning the Paine injunction come up in connection with those doors you had on stock? A. That was the whole cause of all the argument.

Mr. Maloney: I move to strike that out as not responsive.

Q80. You might answer that question yes or no. A. It did.

Mr. Maloney: When and where? Get the time, please. 4071

A. On the corner of Tiffany and 169th Street, on the sidewalk.

Mr. Maloney: When?

A. I think the latter part of July. Some time during the operation, at least.

Q81. Mr. Van Marter, the Hubbell Hardwood

Door Company also made a contract in the Summer of 1911 to supply certain doors, sash and trim for a building on 151st Street and Broadway, did it not? A. Yes, sir.

Q82. Can you tell me about the date when this contract was made? A. I don't recall the date; somewhere about the same time as the Happel job. I don't recall the date.

Q83. Could you say whether it was before or after? A. It was after the Happel contract

Q84. Can you state who manufactured the doors
4073 that were furnished on this contract? A. On the Charles Hurlinger job, at 151st Street?

Q85. Yes. A. Yes, sir; the Paine Lumber Company.

Q86. Did you ever visit that job? A. Yes, sir.

Q87. What was the occasion of your visit? A. After the trim had been delivered, partially put up, they telephoned us that there had been a strike ordered on the job.

Mr. Mayer: I move to strike that out, indefinite, hearsay, incompetent, irrelevant and immaterial, not within the issues of the pleadings.

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Mr. Maloney: Same objection; and I move to strike out the answer on the same grounds.

A. I went down to the Stagmeyer job, the office, the architects, got the information; he said that one Nyland, a delegate on the job, had ordered the me nto quit work.

Mr. Mayer: I object to what he was told.

Q88. Now, this Stagmeyer job and the Hur-

linger job are the same job? A. Yes, sir; Stagmeyer was the architect, Hurlinger, the contractor, the owner, George Ehret. 4075

Q89. Did you see that the men had actually quit work on the job? A. Yes, sir; I did.

Q90. Now, you went down to the headquarters of the Joint District Council to see them concerning this matter, didn't you? A. I did.

Q91. That was on 59th Street? A. Yes, sir; 142, I think.

Q92. About when was it that you went there? A. The next meeting night, I don't recall whether it was Monday or Wednesday or Friday. 4076

Q93. Do you recall now whether it was in August or September? A. It was about that time, the time that this strike was called on the Hurlinger job.

Q94. Did anyone ask you to go there? A. Down to the architects' office?

Q95. No, to the Joint District Council office? A. Mr. Hubbell asked me to go there. Mr. Stagmeyer asked me to go down there and see if we could not straighten the matter out and see what the trouble was, what fault they had to find.

Q96. Whom did you meet at the headquarters of the Joint District Council? 4077

Mr. Mayer: I object, incompetent, irrelevant and immaterial, not in any way touching the issues in this case, in no way tending to establish a conspiracy alleged in the papers.

Mr. Maloney: Same objection and I move to strike it out on the ground that it is incompetent, irrelevant and immaterial, not pleaded.

4078 Edward Van Marter, for Complainants—Direct.

A. I met Mr. Neal, Mr. Rice, Mr. Nyland, Mr. Simpson, Mr. Anderson, in fact, I met practically all the delegates, a lot of them I don't know the names of, a lot of them I do. I have been down there several times.

Q97. Do you mean you met the men you have named on this first visit? A. Part of them, in fact, I met most of them nearly every time I was down there; sometimes there were one or two that were not there.

Q98. Can you state whether or not it was John
4079 Rice whom you met? A. I think that is his first name, yes, sir.

Q99. Can you state whether or not you met this same man, John T. Donovan? A. John T. Donovan, I met there.

Q100. Now, you were ushered into a room where they were all present? A. Ushered into the private committee room, I believe they call it.

Q101. Now, tell me just what took place?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial, not within the issues; not pleaded.

4080 Mr. Mayer: Same objection; happening after the services of the complaint, in no way tending to show any conspiracy as alleged in the complaint.

A. Well, the committee were there and I stated my case plainly to them, stated the fact that the Hurlinger material was all, each and every inch of it, manufactured in our own plant, that we did not see any reason why they should interfere with it; it was a union job, everything connected with it was in the union spirit; the doors at this time

had not been delivered on the job; and tried to find out why for some reason they kept on interfering with our business; and they said that they would take the matter under advisement after a long conversation, and ushered me out into another room.

Mr. Maloney: I move to strike out what was said by this witness, immaterial; he was not asked to state what he did.

Q102. Did they state anything to you at that time? A. They said that they would take the 4082
matter under advisement and put it to a vote and then let me know what decision they came to.

Q103. That was practically all the conversation that they indulged in in your presence at that time? A. Well, about all, yes, at that time.

Q104. You did most of the talking? A. Yes.

Q105. Now, you went outside; what happened next? A. After being out in the ante-room, or rather, in the meeting-room, across the hall, Mr. Rice came out and he said that they would call another meeting, on, I think, the following meeting night, I believe it was, on a Monday, and that
I should come down then and see what they could 4083
do about it.

Q106. Well, did you come down on the following Monday? A. I went down on the following meeting night.

Q107. Whom did you meet? A. I met several of the delegates there. They took the matter under advisement——

Q108. Just a moment, first. Can you give me the names of some whom you met? A. Well, quite a number. Mr. Rice was there, Mr. Nyland was

there, and at this night I do not think Mr. Walsh was there. I think Mr. Anderson was there and two or three of the other delegates that belonged to the committee. I think there were four delegates who were supposed to form the committee there.

Q109. Was Mr. Donovan there? A. I don't think Donovan was there that evening. In any event, after talking with them for a while, they took the matter under advisement and voted to call the strike off unless the hanging of the doors,
4085 which they did, and instructed Mr. Nyland to order the men back to work, which he did.

Mr. Beattie: I ask that it be stricken out, incompetent, irrelevant and immaterial.

Q110. You stated that no doors had been delivered on the job at this time? A. At that time, no sir.

Q111. They voted to call the strike off less the hanging of the doors? A. Less the hanging of the doors.

Q112. How were the doors brought into the situation? A. They knew very well that doors had
4086 to go on the job.

Q113. Referring to doors to be delivered in the future? A. Yes, sir.

Q114. How long after was it that the doors were actually delivered on this job? A. The following day, not the day after this meeting, but the day after.

Q115. Two days after the meeting? A. The meeting at night, the day after, the next morning.

Q116. On Wednesday following this Monday?

A. Yes. As soon as I got back to the factory, right the following day.

Q117. Were the doors hung? A. No, sir.

Q118. Did you take any further steps to try and have the doors hung? A. I did.

Q119. What did you do? A. I went to see Mr. Nyland, the delegate. They ordered the men to complete all the other work in the building but not to hang the doors.

Q120. What did he tell you to about it when you went to see him? A. Said he was powerless to call the strike off on the hanging of the doors, that John Rice was his boss and I would have to see him.

Q121. Did you see Rice? A. I saw Mr. Rice.

Q122. What did he say? A. Mr. Rice said it was out of his hands, that it was up to the committee, I would have to see Mr. Cook.

Q123. Well, another meeting was arranged for, was it not? A. A later meeting, yes, sir.

Q124. And you attended that meeting? A. I did.

Q125. At the headquarters of the District Council on 59th Street? A. Yes, sir.

Q126. And that meeting was arranged on account of this trouble with the doors on this Hurlinger job? A. At my request to bring Mr. Hubbell, the head of our firm, before the committee and let him plead his own case.

Q127. Who was present at this meeting? A. The full requirement of the committee. Mr. Walsh and the other members of the committee, I don't recall any of the names of the committee; I believe there are seven altogether; I believe they were all there.

Q128. What business agents? A. This night Simpson was there, Donovan was there, Rice was there Nyland was there, Anderson was there, and, well, a lot of others, I don't recall their names.

Q129. Well, you presented your case to them. What did you say? A. Mr. Hubbell took the matter up and he used about every argument that a business man could use to persuade them to let these doors be hung on the Hurlinger job, telling them that he was willing to organize his plant to their way of thinking in regard to the hours if
4091 they insisted on the extra two hours being taken off, he was willing to do it.

Q130. Did you have another meeting with these men before Mr. Hubbell came? A. I had three or four meetings, Mr. Merritt, I don't recall which was which.

Q131. This meeting that was arranged after yau saw Mr. Rice. A. I had another meeting after the night Mr. Hubbell was there. I had two or three preceding his visit.

Q132. Well, you had a meeting at which you took down a list of doors, didn't you? A. I took down a list of doors——

4092 Q133. Just a moment. Was that before or after the time Mr. Hubbell was there? A. It was after Mr. Hubbell had been there, I think. During Mr. Hubbell's interview with these men he agreed to submit a list of doors to them, giving them, as near as he could, the number of doors we had in the warehouse at the time, and later I produced that list at the meeting.

Q134. How many doors did that show? A. Some 12,000 doors, something more than 12,000, I think.

Q135. What was approximately the value of those doors? A. Well, anywhere from $35,000 to $40,000.

Q136. Can you state whether or not all those doors were made by the Paine Lumber Company? A. No. The majority of them were, though.

Q137. Now, you had several meetings in all, you say? A. Yes.

Q138. Give me the conversation as far as you recall which took place at this meeting at which you submitted this list of doors? A. They looked it over, each of them had some comment to make, 4094
and none of them seemed willing to agree to it to let us use them. I went down with this list to begin with, with the proposition that if they would let us use a portion of those doors in the New York market that Mr. Hubbell would agree to purchase in the future nothing but doors that were satisfactory to their organization.

Q139. Was this before Mr. Hubbell had been there? A. This was after Mr. Hubbell had been there; that is, the evening I presented this list was after Mr. Hubbell's interview—that if they would allow us to use a certain portion of this 4095
list of doors on the New York market, in other words, give us a chance with the outside work to include a portion of it in the New York market, whereby we could move that number of doors from our warehouse in a reasonable length of time, we were willing to agree with the union to purchase nothing but union-made doors that they would sanction.

Q140. That is what you stated to them? A. That is the statement I made to them. They one and all agreed that they did not want us to hang

the doors, they would not agree to let us put the list in at all, to use any of them, and in fact, one stated that if he had his say he would not let us hang a one of them.

Q141. Who was that? A. Mr. Walsh, the chairman of the committee.

Q142. Was there any vote taken on the matter in your presence? A. After the conversation had dragged through for an hour or so, they asked me to retire to the waiting-room or to the other meeting-room, and they took it under advisement.

4097 Q143. Did anyone report to you the result? A. Mr. Rice finally came out to me and told me that he was sorry but that they had decided that they would not accept the list and that they would not allow us to hang the doors on the Hurlinger job.

Q144. This was after Mr. Hubbell had been there? A. This was after Mr. Hubbell had been there, after he had agreed to furnish them a list. The night Mr. Hubbell was there he agreed to furnish them a list of the doors and get them to consider it.

Q145. Was any mention made of the fact at any 4098 of these meetings that these doors were made by the Paine Lumber Company? A. I don't think the word Paine Lumber Company was used.

Q146. At any of these meetings? A. Not that I know of; not that I recall. It was a name that all seemed to wish to avoid.

Mr. Beattie: I ask that that be stricken out.

Q147. Don't you remember someone stating that the doors were made by the Paine Lumber Com-

pany and that girl labor was used to produce them? A. Mr. Simpson made the statement to me that there were a whole lot of people who would be glad to go to State's Prison to stop women and children from working in factories, as they done in the Paine Lumber Company mill.

Q148. But you don't remember a statement such as I put to you? A. This was made, I don't know just what words, just exactly the words used, but it was to that effect.

Q149. Was this statement made at one of those meetings? A. During the meeting, yes. 4100

Mr. Maloney: The statement that you just said that Simpson made, you mean was made at one of the meetings of the District Council?

A. No, sir; not in the meeting-room. While I was down there, during this controversy. It was made to me in the anteroom by Simpson himself in the presence of two or three other people.

Mr. Maloney: I would like to ask counsel for complainants if it is proposed to show that the Paine Lumber Company answers the 4101 description made by Simpson, so that it may be inferred that the Paine material was what was referred to by the fact that it was an institution like the Paine Lumber Company that hired girls and women to do the work, or if it is intended to show by this witness's testimony that the Paine Lumber material was directly referred to.

Mr. Merritt: I think that Mr. Simpson was undoubtedly intending to misrepresent the conditions in the Paine Lumber Company by

his remark, but the description is certainly not a truthful one of the Paine Lumber Company.

Mr. Maloney: Then I move to strike out the testimony as immaterial and irrelevant and not responsive to the question.

Q150. What was the final answer given you by these people at your last meeting? A. The final wind-up, the last time I went down in reference to this particular Hurlinger job, they de-
4103 cided that they would allow the material that we furnished on the job to be put up by their men in toto, but that they would not allow the doors to be hung and the doors were never hung and they are not hung there to-day. The doors that we are talking of are in a warehouse adjacent to Charlie Stagmeyer's office, I think, on Third Avenue. They had to purchase doors from Brooklyn in order to complete the job.

Mr. Maloney: I move to strike out all this testimony as relating to facts happening after the commencement of this action, incompetent,
4104 irrelevant and immaterial, not relating to the issues framed by the pleadings, not pleaded, supplemental, in no way binding on these defendants.

Mr. Mayer: I join in that motion.

Cross-Examination by Mr. Beattie—

XQ151. How many doors does your company put up in the course of a year? A. How many do we sell, you mean?

XQ152. Yes, sell? A. Why, I could not tell

you. A good many hundred of them, several thousand.

XQ153. What is the average handling of doors in the course of a year, approximately? A. I could not give you anything like an accurate reply.

XQ154. We do not want it accurate, just approximately. A. Well, several thousand doors.

XQ155. Can't you make it more approximate than that? A. That is as near as I could give you an answer.

XQ156. Three thousand or more? A. Possibly three thousand or more, yes. 4106

XQ157. Well, which, is it more than three thousand? A. I have answered the question as near as I can truthfully answer it. I don't know how many doors they do sell here, they sell several thousand doors a year.

XQ158. Between what figures do you sell doors, a year? That is, you do not sell less than how many and do not sell more than how many? A. I could not tell you.

XQ159. You cannot give us any idea on that subject? A. Nothing nearer than I have stated, I have never taken the trouble to check up a year's output of doors, in fact, one year would be very 4107 different from others. At times we get large imports of doors, at others we do not.

XQ160. In the year 1911 how many doors did you sell? A. I am sure I could not tell you.

XQ161. Did you sell as many as a thousand? A. Yes, sir.

XQ162. Two thousand? A. Yes.

XQ163. Three thousand? A. Yes.

XQ164. You are sure about the three? A. Yes.

4108

XQ165. Did you sell any more than three? A. Possibly.

XQ166. Well, did you? A. I don't know.

XQ167. Did you sell as many as four thousand? A. I don't know.

XQ168. Well, it would take you about four years to dispose of this stock of doors you had, wouldn't it? A. Why, we don't think so.

XQ169. Well, according to the ordinary course of your business wouldn't it take you somewhere around four years? A. We didn't think it ought

4109 to take much over a year or so.

XQ170. You mean you have sold in 1911 as many as 12,000 doors? A. I didn't say so.

XQ171. Well, 1911 was the year that you figure out the likelihood of your business for 1912, wouldn't it be? A. Yes, to a certain extent. It is very uncertain in the trim business.

XQ172. Have you ever sold as many as 12,000 doors a year? A. I am sure I could not tell you. I have never tallied up the year's business on the amount of doors moved.

XQ173. You have tallied up the amount of doors you had in stock at this time? A. We did that for

4110 the benefit of the organization—they wanted to know.

XQ174. When did you buy these doors? A. At different times. We have carloads of doors coming in almost every month.

XQ175. On June 1st, 1911, how many doors did you have in stock? A. I could not tell you.

XQ176. Didn't you order nearly about 12,000 doors after these disputes arose? A. What is that?

XQ177. Didn't you order most of these 12,000 doors after these disputes arose? A. No, sir.

XQ178. Don't you know how many——? A. The doors were ordered and they have been coming in gradually right along, some input and output right along, all the while. We generally carry that many doors in stock.

XQ179. Twelve thousand doors? A. Somewhere around that, yes, sir.

XQ180. How many of those doors came from each manufacturer—? A. The major part of them came from the Paine Lumber Company. 4112

XQ181. Where did the minor part come from? A. I could not tell you.

XQ182. Don't you know who made the other doors? A. We buy doors from Thayer, from Barnes, from different people.

XQ183. Are these Thayer, Barnes and different people all non-union concerns? A. No; I believe they are all union concerns, as far as I know.

XQ184. Do you know? A. I don't know, I am not sure, I have never taken the trouble to find out.

XQ185. But you are running a union shop, you say? A. We certainly are. 4113

XQ186. And wasn't it part of your duty to find out whether you were buying union or non-union stuff? A. I did not think so.

XQ187. Well—you claim they are all union men in your mill? A. Every one of them, yes, sir.

XQ188. Don't they work upon the doors you buy, to some extent? A. They certainly do, yes.

XQ189. Didn't you know it was against their rules to work on non-union material? A. I don't know about that. They alter a great many doors

there, taking out panels and replacing mouldings, and altering sizes and they alter hundreds of them.

XQ190. The doors? A. Yes, sir.

XQ191. Do you tell the men that they are non-union doors when you ask them to work on them? A. I understand that there is not a union man in the State that does not know a Paine door when they see it.

Mr. Beattie: I ask that that be stricken out.

4115 XQ192. Answer the question, please? A. No, we don't tell them anything, as far as I know.

XQ193. You say your shop is organized according to union rules? A. Yes, sir.

XQ194. And you don't know whether one of those rules is, that union men shall not work on non-union material? A. That is not our affair.

XQ195. You don't know whether that is one of their rules? A. I am sure I don't know what their rules are, no, sir.

XQ196. You don't know what any of the other rules are, do you—union rules? A. Union rules?

XQ197. Yes. A. I don't know very much about it.

4116 XQ198. Can you tell us any union rule? A. Well, no; I don't know any of them, to tell you the truth, I don't believe I know any of their rules.

XQ199. Now, you offered to unionize your shop at this third meeting at the District Council, provided they would hang these 12000 doors in stock? A. I did not say so.

XQ200. Isn't that the inference from what you said? A. No, sir.

XQ201. Wasn't there a dispute between you and these labor men as to the number of hours per week you were working your carpenters? A. Yes,

not a dispute. That part they were willing to waive. The New Rochelle regulation of the organization is fifty hours a week, the New York is forty-eight.

Mr. Beattie: I ask that that be stricken out.

A. They asked us to work our shop forty-eight hours, which we agreed to do.

XQ202. I shall go into that later on. You offered to work your men two hours less a week if they would put up the 12,000 doors, is that right? A. No, sir. 4118

XQ203. Well, what did you offer them for putting up these 12,000 doors? A. I did not offer them anything.

XQ204. These doors were partly union and partly non-union, aren't they? A. We said that we would organize our shop, or rather, that we would change the working hours to forty-eight hours a week instead of fifty if they would hang the fifty-six doors on the Hurlinger job and give us permission to hang a portion of the doors we had in stock in the New York market. That was our proposition to them.

XQ205. Did you fix the portion? A. The portion was not fixed, but it was technically understood to be 2,000 or 3,000 doors to be hung in the New York market. Our inference was that we could move the balance of them in the meantime in other trade. 4119.

XQ206. That was inference? A. Yes.

XQ207. Did you declare or state this inference to the labor men? A. I think I did, yes, sir.

XQ208. Are you sure about it? What meeting did you do it at? A. At the meeting when this

door question was taken up, on the night that I produced the list.

XQ209. That was the third time you were down there? A. I forget whether it was the second, third or fourth.

XQ210. How many times were you there? A. Four or five.

XQ211. Do you know which? Was it four or five times? A. It was the night I brought down the list of the doors.

XQ212. Do you know how many times you were
4121 there, four or five? A. Four or five.

XQ213. Do you know exactly? A. I know it was four; I don't know whether it was five or not. It may have been six.

XQ214. It might have been six. Might it have been seven? Seven times that you were down to the Joint District Council? A. I don't think it was.

XQ215. It might have been six times? A. I think it was six times I was there in all.

XQ216. You have only told us about four times you were there, I believe? A. Well, I was there once or twice when I could not get any audience
4122 with the committee at all.

XQ217. Were those the other two times? A. Met Mr. Rice both times that I was there. Two different times I was there when I could not have any audience on account of other business being transacted.

XQ218. You had audience with Rice? A. I met Rice.

XQ219. And conversed about the matter each time? A. I asked him to get an interview, find out what they were going to do, and he told me that they could not do anything that night.

XQ220. Can you tell us when you attended those two times? A. In the intervening meeting nights, between the times I was there before the committee.

XQ221. Now, what wages do you pay your men? A. Sir?

XQ222. How many carpenters do you employ and what wages do you pay them in your shop? A. The average wage we pay up there is about $19.75 a week.

XQ223. I am asking you what is the lowest? A. Some of the men we pay as high as $25. 4124

XQ224. And what is the lowest wages you pay any of the men? A. I think that is the lowest wage we have in our shop, is $19.75.

XQ225. Are you sure about it? A. Pretty positive. I mean for the mechanics.

XQ226. That is the lowest wage and also the average wage? A. Yes, we might term it an average. We have one or two men we pay considerably more to.

XQ227. How many men have you altogether? A. Twenty-five or thirty, I don't know just how many. 4125

XQ228. Carpenters? A. Carpenters and machine hands and bench hands, window framers, etc.

XQ229. That is, the members of the carpenters' union? A. Yes.

XQ230. Are you sure that they are all members of the carpenters' union? A. I believe they are.

XQ231. Do you know? A. I am quite positive they are.

XQ232. Do you know? How do you know that? What makes you positive? A. For the simple rea-

son that they could not work there if they were not.

XQ233. That is your only reason? A. Mr. McLaughlin would not allow them to work there. I am very much convinced of that.

XQ234. Now you say that you were organized under the New Rochelle District Council? A. I believe that is what they call it, yes, Brotherhood of Carpenters and Joiners.

XQ235. You had some letter purporting to come from the District Council of New Rochelle, which
4127 was used in contempt proceedings here, didn't you? A. I believe that the Secretary of the organization did give up a letter or sent a letter or something of that kind; I don't know; I didn't see it; I heard something of it.

XQ236. Weren't you the one that gave it up? A. Gave what up?

XQ237. Gave up a letter purporting to be from a District Council of New Rochelle regarding your shop? A. Who, me?

XQ238. Yes. A. No, I did not give it up.

XQ239. Didn't you see such a letter? A. I think I heard of such a letter, yes.

4128 XQ240. Wasn't it sent to your concern? A. Sent to our office?

XQ241. And weren't you the man who received it? A. No.

XQ242. Who was the man? A. I believe Mr. Hubbell received it.

XQ243. And he didn't show it to you? A. In fact, I know I did not read it, no, I heard about it.

XQ244. You weren't interested in it? A. I knew about it, yes.

XQ235a. Do you know about the date of it? A. No, I do not.

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XQ236a. Did you make any arrangements yourself with the District Council of New Rochelle in connection with your shop? A. No. The shop had been organized along previous to my making any connection with this firm.

XQ237a. That is, you think it was organized? A. I know it was organized.

XQ238. You weren't there when it was organized? A. I know it was organized.

XQ239a. When was it organized? A. Previous to my being there. It had been a union shop two or three years at least.

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XQ240a. Did you have anything to do with the organization? A. No, sir.

XQ241a. And you had nothing, then, to do with the Hubbell Company at the time it was organized? A. No, I was not with the Hubbell Company then. It was a union shop some two or three years previous to my going there, from information I have received.

XQ242a. From information you have received? A. Yes.

XQ243a. Do you know that the District Council of New Rochelle was out of existence at the time that this letter was used or received and dated? 4131
A. The District Council of New Rochelle is still in existence?

XQ244a. You think it is? A. As far as I know yes, sir.

XQ245. Do you know? A. Their organization is running there just the same.

XQ246. Do you know? A. As far as I know, yes.

XQ247. How far do you know? A. My belief

is, that it is still there. It would be news to me if it isn't.

XQ248. If it was my function to give you news, I would tell you it was not. A. I don't know anything about it, I am sure.

XQ249. Now you say that at the third meeting you did most of the talking. Did you do most of the talking at the other three meetings? A. At each and every night except the night Mr. Hubbell was there.

XQ250. And did you do most of the talking
4133 every time you saw Simpson and Donovan? A. No, sir.

XQ251. Did they do most of it? A. They did most of the talking themselves. They were interested, not I.

XQ252. Oh, you were not interested? Now, do you buy some trim from other concerns? A. We buy lumber, and so forth, all over the country.

XQ253. Do you buy sash, frames and blinds? A. Yes, sir.

XQ254. And from non-union concerns? A. I don't know who they come from.

XQ255. You don't know who they come from,
4134 and then you turn them into your mill, for these union men to work on? A. If it happens to be that it is necessary to work on them they have to do the work, of course.

XQ256. It is generally necessary, isn't it, that trim, and so forth, shall be worked upon to some extent by your men? A. Not always so, no.

XQ257. Generally? A. Doors and sash as a rule do not have anything done with them except to move them, that is all. Sash has to be glazed, of course. We do all our own glazing.

XQ258. And you don't do anything on the doors? A. Very seldom do anything on the doors. Sometimes some little repairs, something of that kind, changing the style of a door, some parts of them have work done on them, some have not.

XQ259. How about these doors on the Tiffany and 167th Street job, the Happel job, did your men work on those? A. Quite a number of them, yes. A lot of them were changed into sash doors, they had to take the panels out and put glass in.

XQ260. How about the Hurlinger job, 151st Street and Broadway these 56 doors? Did your men in the shop work on them? A. I don't know whether we did or not, very little, if any, I think a few of them had to be changed into sash doors.

XQ261. Do you know whether those doors in this Hurlinger job were all from the Paine Company? A. They were, with the exception of two.

XQ262. And where did those two come from? A. They were made in our shop.

XQ263. And there were 56 doors in all? A. 56 of the Paine doors, I think.

XQ264. And two of yours, 58 in all? A. Two odd sizes of doors we had to make in the shop, we did not have the door.

XQ265. Well, now, how about the Happel job? How many doors were involved in that, about 50? A. I think there were somewhere around 300, 312, or something like that, I don't recall the exact number.

XQ266. Do you know where those doors came from? A. Most of them from Paine.

XQ267. How many did not come from Paine? A. I don't know that there were not any that did not come from the Paine.

4138 Edward Van Marter, for Complainants—Cross.

XQ268. There may have been? A. There may have been some that did not come from the Paine Lumber Company.

XQ269. And if they did not come from the Paine Company they may have come from Thayer or Barnes or some of these other people? A. They may have come from any place.

XQ270. Or may have been made by yourself? A. May have been made in the shop, yes.

XQ271. Is there anything put on your doors to indicate that you make them? A. No, sir. They
4139 are stamped right on the style of the door, Kore lock.

XQ272. Doors you make? A. The doors that come from the Paine Lumber Company

XQ273. I am asking you about your doors? A. We do not stamp our doors with anything.

XQ274. Does Thayer or Barnes or any of these other mills stamp their doors? A. I don't know whether they do or not.

XQ275. But you know you don't stamp yours? A. We do not, no, sir.

XQ276. Do you know whether all the doors of the Paine Lumber Company are stamped? A.
4140 Most of them are.

XQ277. Most of them are stamped? A. Yes.

XQ278. Is that the only stamp he puts on, "Kore-lock"? A. That is the stamp.

XQ279. He does not put the name Paine Company? A. No, sir.

XQ280. Or Paine Lumber Company? A. No, sir.

XQ281. There are other people making Kore-Lock doors than Paine, are there not? A. None that I know of.

XQ282. Don't you know that others make similar doors, whether they call them Kore-Lock or not? A. Others make similar doors, yes. The Morgan Company, of Oshkosh, makes a similar door.

XQ283. Similar door to this so-called "Kore-Lock" door? A. Yes.

XQ284. Do you know of your own knowledge whether any door on the Happel job or the Hurlinger job had any stamp on them to show where they come from? A. The doors I am sure had the stamp on them on both jobs. I am quite positive it must have been on. 4142

XQ285. Do you know, did you see any stamp on them? A. I did see the stamp on the Happel job, the stamps were on those.

XQ286. What stamp? A. Kore-Lock.

XQ287. On how many doors? A. I could not tell you. I imagine that they were all stamped.

XQ288. Did you go around and see that they were stamped? A. Why, no.

XQ289. There may have been a lot of them that were not stamped, and there may have been a number that did not come from the Paine people? A. I am quite positive that all the hardwood doors on the Happel job, which was an oak job—and that they came from Paine. The cypress door that went into the exterior cellar may not have come from the Paine, but the interior doors all came from the Paine Lumber Company. 4143

XQ290. You are no more sure about that than you were a while ago when you told me some of them may not have come from the Paine Lumber Company? A. I was referring to the exterior cellar doors. I think there were 27 doors in the

cellars alone, outside, the areas.

XQ291. Are the cellar doors the first that arrive on the job? A. No, sir, they are the last as a rule; they were delivered even after the strike was over.

XQ292. Do you buy doors from the Morgan Company, too? A. Why, not as a rule. We have had occasions where we have had contracts that call for the Morgan door, architects' specifications, but I don't recall that we ever purchased any from the Morgan people; we may have done so,
4145 though.

XQ293. And may have bought similar doors to those Paine doors from them? A. No, I don't think we did. The Morgan door is similar construction, but a different arrangement of panels.

XQ294. Well, not all so, are they? Don't they make the same door as to panels, too? A. No, not the same; their door is a five-panel. The Paine is six-panel high, Kore-Lock.

XQ295. Don't you order any set of panels you want, five or six? Do you describe the door you want? A. We generally describe the door, yes.

XQ296. Now, on this Happel job, where 300
4146 doors were ordered,—do you give an order to Paine that you want them, or do you get into your loft and take out so many doors? A. We order what we don't have in stock; we first go over our stock books generally and check anything we have in stock, and that is used first, and what we don't have we order.

XQ297. And when you go around to fill such an order you don't limit yourself to any one manufacturer of doors, do you? A. Positively not.

XQ298. You try to get doors that correspond to your order? A. Yes.

XQ299. And look through your loft for these? A. Yes.

XQ300. And that is what was done on the Happel job, as well as the other job, I suppose? A. We had the doors all in stock in toto, every door on the job, for the Happel job.

XQ301. How about your Hurlinger job? A. We did not have to purchase a one on that order specially. For a point of information, I might state that when our stock gets to a certain point we order another car, so as to try and keep our stock up to a certain stock limit. 4148

XQ302. That is 12,000 about? A. Well, no, not 12,000. We have a certain stock limit on a certain size of doors. Sometimes one size of doors won't move for a long time and that gets us overstocked.

XQ303. Have you ordered many doors since this affair arose? A. No, we have not, I don't think, ordered any except special sizes.

XQ304. And where did you order them from? A. I could not tell you.

XQ305. Did you order many of them? A. Many?

XQ306. Yes. A. Very few. We are cutting 4149 down our stocks continuously since this trouble has started, to try and reduce it, in fact, we are going to extinguish it entirely.

XQ307. To extinguish it? A. Yes, sir, as long as we can work it in. The doors we cannot make out of the doors we have got, we have to purchase, of course.

XQ308. But you don't know where you have bought any doors since last November, don't know

what mill you bought them from or what mills? A. I could not tell you, no.

XQ309. From different mills? A. I think so, yes, odd doors.

XQ310. But you did not buy anything but odd doors? A. That is all. We have not bought any carload lots; that is my best belief and knowledge.

XQ311. Is the Paine Lumber Company interester financially in your business? A. In no sense that I know of.

4151 XQ312. Who do you buy your trim from? A. We buy our lumber from different people.

XQ313. I mean your trim, aside from the doors, the trim? What concerns do you buy that from? A. We buy all dimension material and run it in our shop.

XQ314. Make most of it in your shop? A. We do not buy undressed lumber, we buy all dressed dimension lumber, all the way from 1″ x 1″ up, all kinds of widths and lengths.

XQ315. And did you tell Simpson and Donovan that all the trim involved in these jobs were from union shops? A. I don't recall that we told them

4152 that, they convinced themselves, they came up and went through the shop, through the warerooms, through the office, consulted with the delegate of the New Rochelle organization, Mr. McLaughlin, and satisfied themselves on that matter, I believe.

XQ316. You knew it was union, didn't you? Aside from the doors involved on these two buildings? A. Our shop is a union shop.

XQ317. You knew that the trim you had bought

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in connection with it was union, too? A. That I don't know.

XQ318. Didn't it come from either of those concerns, Thayer, Barnes, or the other concerns which you said were union? A. I don't know whether they are union or not.

XQ319. I thought you said you believed they were union? A. I did not.

XQ320. Didn't you say so? A. I did not, I said I did not know.

XQ321. Can you remember what you said half an hour ago here all right? A. I might.

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XQ322. Probably I am wrong about this. Didn't you say that Thayer and Barnes were union shops, but you didn't know about the others? A. No, sir, I said I did not know whether Thayer and Barnes were union shops.

XQ323. There was no occasion for Simpson or Donovan to say to you that the trim was waived, if it was union? A. They said they were satisfied about the trim.

XQ324. There was nothing to waive if it was union? A. I don't see that there was.

XQ325. And you said nothing to them to the effect that the trim or any of it was non-union? A. I certainly did not. The whole issue hinges upon the point——

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XQ326. I don't want to know about the whole issue here. Now in these two jobs, do you know whether the carpenters were union or non-union? A. I believe they were, from the fact that their employer was a man that has got the reputation of employing only union men, Mr. Rapp—I believe that they were union men; the contractors

XQ327. What job is that? A. That is the Happel job and also on the Hurlinger job. I am positive that they were all union men from the fact that Mr. Hurlinger is noted as having a union shop.

XQ328. As having a union shop? A. Yes, sir. Further than my belief, I have no positive proof that they are.

XQ329. Well, you were asked to go down to the District Council to find out what the trouble was? A. Yes, sir.

XQ330. By Mr. Hubbell? A. Mr. Hubbell and by Mr. Stagmeyer and Mr. Hurlinger, all three of them. They wanted someone to go down and find out what the trouble was and see if we could not get it adjusted.

XQ331. This was after you had the conversations with Nyland and Simpson and Donovan? A. No, sir. I had conversations with Simpson and Donovan both previous to the beginning of the Hurlinger job. Nyland had not entered into the matter until after the Hurlinger job was started.

XQ332. Before the Hurlinger job you had the conversations with Simpson and Donlan, didn't you? A. Both of them I had conversations with, during the Happel operation.

XQ333. Did you go down to the District Council with regard to the Happel job, or was it only as to the Hurlinger job? A. Only as to the Hurlinger job. The Happel job was adjusted without going to the Council.

XQ334. And you had conversations with Nyland and Simpson before you went to the Council regarding the Hurlinger job, too, didn't you? A. No, sir.

XQ335. Had no conversations with them? A. I had not seen Nyland until after I had gone down to the Council, in fact, I did not know who the delegate was on the job.

XQ336. And you did not find out what the trouble was until you went down to the Council? A. I knew that there was a strike on the job, yes.

XQ337. Did you get any more light down there as to what the trouble was? A. I certainly did.

XQ338. Find out what the issue was that you speak of? A. The trouble was the doors, that is what they said. 4160

XQ339. Who said that? A. The committee.

XQ340. All speaking in a chorus? A. No, that was their final decision. After taking the matter under advisement, they decided that——

XQ341. Where were you when they decided? A. I was in the next room, or two or three rooms away.

XQ342. That is while they were taking it under advisement and deciding that you were two or three rooms away? A. I walked through the reception room, across the hall into a meeting room. The committee room faces the street and the other one faces the back of the building. 4161

XQ343. When did you first know about the Paine injunction? A. Why, I think about the first day that it was reported.

XQ344. That is, the first time it was issued? When did you find out about it? A. I don't recall. Someone told me about it, or I saw it in the paper.

By Mr. Maloney—

XQ345. Can't you fix the time? A. I cannot.

XQ346. Can't you fix the time with respect to

some of those conversations you had? A. Not the actual dates, no, sir.

XQ347. But what respect to some of the conversations you had either with Simpson or with Donlan, or Nyland, or any of the other persons with whom you did have conversations? A. I had conversations with Simpson in our office. I had conversations with him on the street on the Happel job; I had a conversation with him at the meeting.

XQ348. Now, with respect to the time you had
4163 these conversations; can you fix the time when you knew of the injunction? A. No, sir, I could not.

By Mr. Merritt—

RDQ349. Before or after? A. Well, I had heard of the injunction previous to the time I saw Simpson on the building.

Mr. Maloney—

XQ350. On the Happel building? A. Yes.

XQ351. And at the office? A. I don't think
4164 that I had heard of the injunction. At Mr. Simpson's first visit at the office the injunction had not then been issued, if my memory serves me right.

XQ352. Had you heard of it between that time and the time you talked with Simpson on the Happel job? A. Yes, sir, I think it was.

By Mr. Beattie—

XQ353. Now, you say they voted at one of these conferences to call the strike off except as to the name was Mr. Rapp.

doors. Were you there when they took the vote? A. I was requested to retire from the committee room while they took the matter under advisement. I was then notified hat they had agreed to call the strike off, on the Hurlinger job, less the doors.

XQ354. There were no doors on it up to that point? A. No, the doors were not delivered.

XQ355. The strike was called before there were any doors on the Hurlinger job? A. Yes, sir.

XQ356. And all you know about what the vote on that subject was what somebody told you. Do you know who it was told you? A. Mr. Rice. He acted as spokesman.

XQ357. Were the doors all taken together on the Hurlinger job? A. Taken down at one time, you mean?

XQ358. Yes. A. I think they all went on one wagon. It was not a whole load, you know.

XQ359. That is, the doors made in your factory as well as the Paine doors? A. Yes, I believe they all went down in the one load. The two store doors may have been made and delivered previous or after, I am not sure about that.

XQ360. How many of these 12,000 doors have you got rid of now? A. I could not tell you. We have got rid of a great many, though.

XQ361. No trouble about getting rid of them? A. Why, no, we are using them right along.

XQ362. And there has been no complaint about the carpenters putting such of these doors as were Paine doors up? A. Yes, they struck another job of ours where there were about 350 of them.

XQ363. Where was this? A. The Albert Schwartzler job.

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XQ364. That was one of the jobs that was under discussion with the District Council at the times that you were there? A. No, sir, that was a long time afterward.

XQ365. Do you know of your own knowledge anything about that affair? A. Further than the delegate by the name of Anderson called a strike there and after there had been quite some trouble made with the Paine people, I believe, three or four arrests made or something of that kind, the men were finally ordered back, as far as I understood.

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XQ366. You were only told that? A. I was not called in on that at all. I knew that the strike was on and that the men went back to work.

XQ367. And you furnished the doors? A. We furnished the doors.

XQ368. How many of these doors were yours and how many Paine's and Thayer's and Barnes? A. They were practically all Paine's.

XQ369. Practically; but how many were not? A. There may have been some odd doors that came from the other people.

XQ370. Can't you give us some idea about how many? A. I don't know; I am not sure. I think there were about twelve front vestibule doors and a few smaller doors that either came from other people, or were made in our shop. The rest of them, the interior doors, were Paine doors.

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XQ372. And these vestibule doors were the doors a person would first see on going into the building? A. After they were hung.

XQ373. And where were they made? A. I am not sure.

XQ374. Don't you know whether they were

union or non-union? A. I could not tell you.

XQ375. May have been non-union doors? A. May have been, yes.

XQ376. About how many cellar doors? A. The cellar doors I think were made up in our shop.

XQ377. How many were there of those? A. I don't think there were but eight, I think two to each of the four houses.

XQ378. Now, after which meeting of the District Council which you attended, did you report what occurred, to the American Anti-Boycott Association? A. No, sir, I never made a report to 4172
the American Anti-Boycott Association at any time in my life.

XQ379. Well, who did you make your report to about it? A. To Mr. Harry Hubbell, the head of our concern.

XQ380. Did he tell you he was sending these reports down to the American Anti-Boycott Association? A. He did not.

XQ381. You know that your reports with regard to what happened at this meeting were submitted to the court on a motion made by the attorney for the American Anti-Boycott Association 4173
to punish some of these officers of the union for contempt, don't you? A. Yes, sir, but that was all done, those reports were all sent after this refusal to handle those doors.

XQ382. Well, the refusal to handle the doors occurred immediately when you were first notified of trouble on the job, didn't it? A. In fact, I don't think that there was any report sent to the American Anti-Boycott Association until after they finally refused to hang the Hurlinger doors.

XQ383. When you first heard of the Hurlinger

job, there was a strike on, wasn't there, when it was first called to your attention? Haven't you so testified? A. I knew of the job, but the first time I knew of any trouble was when there was a strike on.

XQ384. After they refused to put up your 12,000 doors, then these reports of yours were sent down to the American Anti-Boycott Association? Or was it at the beginning? A. It was after they refused to allow us to hang a part of the 12,000 and to hang any of the doors on the Hurlinger job.

4175 We gave them lots of chance.

XQ385. Is the Hubbell Hardwood Door Company a member of the American Anti-Boycott Association? A. I don't think they are.

XQ386. Do you know? A. I am quite postive that they are not; I don't know, though, as a fact.

XQ387. Well, you did what you could to have these officers of the union punished for contempt of court, didn't you? A. Not until after they had absolutely driven us to the wall in the matter.

XQ388. Well, you did then exert yourself as far as you could, didn't you? A. Well, no further than to tell the truth, in such questions as were

4176 asked.

XQ389. Well, all the truth you could get hold of you put into the hands of the attorneys moving to punish them for contempt, didn't you? A. Well, nothing further than, I believe, I made an affidavit.

By Mr. Mayer—

XQ390. Don't you know you made an affidavit? A. Yes, I know of the affidavit. I simply stated

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the actual facts that have occurred, only, which I think the affidavit will bear out.

By Mr. Beattie—

XQ391. Well, now let us see if it does. You have testified here that you told Donovan people were getting hush money and "you are liable to be the goat in connection with the Paine injunction." A. I told him I had heard that certain people were getting hush money and that he was liable to be the goat.

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XQ392. Did you say anything about that in your affidavit in the motion to punish them for contempt? A. I think I did, I am not sure.

XQ393. Did you get the goat in there? A. I think so.

XQ394. You are not sure about it? A. I am not positive, no. That affidavit was made quite a long time ago and my memory is not any too good.

By Mr. Maloney—

XQ395. You read that affidavit over to-day, didn't you, before you took the stand here? A. I did, yes.

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By Mr. Beattie—

XQ396. Then you say that Donovan replied, also bringing in the goat, said he was not going to be a goat? A. I don't think he answered in just those words.

XQ397. Well, but the goat was there, wasn't it? I think he said he did not purpose to have anybody make a goat of him.

XQ398. Did you say anything about that in the affidavit you submitted to punish these men for contempt? A. I don't recall whether that was in it or not.

XQ399. But you think you told all the rest of the truth about these conversations, do you, in the affidavit? A. Positively did.

XQ400. Now, let us see. A. This conversation was in the presence of other witnesses, you.

XQ401. This about the goat? A. Yes, sir.

XQ402. I submit to you the affidavit that you
4181 made in the contempt proceedings and ask you to read that and see if any of these conversations about the goat is in there.

Mr. Maloney: He said he read it over before he took the stand.

The Witness: I looked it over.

By Mr. Beattie—

XQ403. Did you read the affidavit before you were called here as a witness—which you have made in the contempt proceedings? A. I looked over the affidavit I made, yes.

4182 XQ404. Is there anything in there about this conversation on your part or Donovan's part about this goat? A. It is just about what I have told you. I told you that I heard that there was hush money——

XQ405. Read the part about the goat.

By Mr. Maloney—

XQ406. When did you read this affidavit over before, to-day? Did you read this affidavit to-day? A. I looked it over to-day, yes.

By Mr. Beattie—

XQ407. Who told you to read that affidavit before to-day? A. I asked to look at it to refresh my memory in some of these subjects.

XQ408. Then your memory was not very fresh on the subject before you read this affidavit? A. I knew all the facts, yes; but I did not just recall all the little incidents that occurred.

XQ409. Just see if you find that incident there. A. I said—"I ought to get something out of it if I straighten this out but they are not going to make a scapegoat out of me." 4184

XQ410. Where is the part you said, about your bringing in the goat, that "you are liable" you have testified here "to be made a goat of"? Did you say anything about that in that affidavit? A. I don't know whether I did or not. I am not sure about the wording of the affidavit.

XQ141. You have testified here to-day that Donovan said he did not want to get the worst of it. Is there anything in that affidavit about that? A. I think he made some such a statement, but I don't know whether it is in this affidavit in that wording. It does not seem to me.

XQ412. Are you sure he made such a statement? A. He certainly did make a statement to that effect. I am not sure if he used those words. 4185

XQ413. You did not think it was worth while putting that in that affidavit? A. Well, I think I covered the ground in this affidavit.

XQ414. At the time of that conversation, you did not know where you were going to get the doors from for that Happel job? A. No, sir. Personally, I did not know whether we would

have to purchase new doors or whether we would be permitted to use the Paine doors or not. Our intention was to use the Paine doors.

XQ415. But you told him you did not know where you were going to get the doors from? A. Told who?

XQ416. Donovan? A. No, sir. The doors were on the job when I was talking to Donovan. The first time I met Donovan in reference to this job was after the doors were delivered.

XQ417. Was that the conversation with Simp-
4187 son you refer to? A. Yes, sir.

XQ418. Then you told Simpson that you did not know where the doors were coming from for that Happel job? A. That is right.

XQ419. And did you not know? A. I did not know, no, sir.

XQ420. Where did you think they were coming from? A. I thought they were going to come right from our warerooms at the shop.

XQ421. Whose doors would they be? A. Paine Lumber Company's.

XQ422. Wouldn't they be Paint Lumber Company's whether they came from your wareroom or
4188 Paine's? A. Exactly.

XQ423. Then you did know where the doors were coming from? A. No, sir; I did not know.

XQ424. Will you explain that distinction? A. From the very fact that we did not know whether they would permit us to use the doors we were carrying or whether they would compel us to buy other doors. Mr. Hubbell refused to state to me what intention he had in the matter. I could draw my own conclusions. We refused to state to Simpson——

XQ425. Did you draw any conclusions about the thing? A. I had my own ideas.

XQ426. What were those ideas? A. My own ideas were that we were going to use Paine doors.

XQ427. Why didn't you tell Simpson that? A. It was none of his business.

XQ428. You knew then about the Paine injunction, didn't you? A. Certainly.

XQ429. Didn't you think it was fair to Mr. Simpson to tell him that these were Paine doors that you were going to put up on that job, and that there was an injunction by which he could not 4190
interfere with them? A. I told him that there was an injunction.

XQ430. But you did not tell him they were Paine doors? A. I did not tell him anything about the doors.

XQ431. Didn't you testify a little while ago you told him you did not know where they were coming from? A. I told him I did not know what doors we were going to put on the job.

XQ432. Weren't you trying to catch this man in a violation of the injunction that he did not know about? A. No. Wanted him to keep away from the job. 4191

XQ433. Why didn't you tell him they were Paine doors and Paine had an injunction? A. He knew about the injunction. He told me he did not care anything about it.

XQ434. You did not tell him about the Paine doors? A. He knew they were Paine doors when they got on the job.

XQ435. I am talking about this conversation you had with Simpson at the time you have testified

about here. You did not tell him then that they were Paine doors that you were going to get? A. No, sir.

XQ436. He did not know or could not know that they were Paine doors if you did not know it, did he? A. No, sir; but he did not call a strike until after they got to the job; then he knew.

XQ437. You knew you could have saved all kinds of trouble by telling that man that they were Paine doors and that they came under the injunction? A. No, Idon't think so.

4193 XQ438. Wouldn't it have been a fair thing for you to do? A. He was bound and determined that these Paine doors should not be put on the job.

XQ439. And yet he did not know that they were Paine doors? A. He had an idea that that was what we were sending.

XQ440. And you thought that, too? A. I did.

XQ441. And you did not tell him? A. I did not, no.

XQ442. But you misled him and told him you did not know? A. I did not.

XQ443. Didn't you tell him that you did not know? A. I told him the truth.

4194 XQ444. Didn't you tell him that you had an idea that they were Paine doors? A. I told him, otherwise he would not know anything about it.

EXAMINATION OF MR. VAN MARTER SUSPENDED.

Adjourned to March 11, at 2 P. M., and Wednesday, March 14, 1912, 2 P. M.

Edward Van Marter, for Complainants—Cross. 4195

PAINE vs. NEAL.

SAME APPEARANCES.

Monday, March 11, 1912, 2:15 P. M.

Examination of EDWARD VAN MARTER continued:

Cross-examination by Mr. Beattie—

XQ445. When you went down to the District Council and showed them a list of doors, did you tell them that a large part of those doors were not Paine doors? A. No, sir; I do not think I did. 4196

XQ446. You gave them to understand that they were all Paine doors, didn't you? A. It was so understood that they were all practically the Paine door.

XQ447. That is, that you had 12,015 doors on hand and that these were all Paine doors, is that it? A. About that.

XQ448. Well, do you recall testifying at the last hearing that a large part of these were not Paine doors? A. No, sir; I don't think I did. I think I said that there were some of them that were not Paine doors.

XQ449. Do you want to change your evidence in 4197
that regard? A. No, sir.

XQ450. Well, do you now say these 12,000 doors on this list were all Paine doors? A. I say they were approximately all Paine doors, the majority of them were Paine doors.

XQ451. Were there 60 per cent. not Paine doors? A. I could not tell you within 95 per cent. of how many were or were not, but I know that they were approximately all Paine doors.

4198 XQ452. I would like to know what proportion you know about. A. I am sure I could not tell you.

XQ453. Do you know how many were Paine doors, for certain? A. No, sir; I have told you as near as I can.

XQ454. Are you certain there were 95 per cent. Paine doors? A. No, sir.

XQ455. Is there any per cent. you are certain of as to Paine doors? A. No, sir; I could not give you any percentage; I know that they were practically all Paine doors.

4199 XQ456. Here the other day you testified this: "Q. Can you state whether or not all those doors were made by the Paine Lumber Company?" and you answered, "No; the majority of them were, though." A. That is what I say now.

XQ457. What do you mean by the majority? A. The largest part of them.

XQ458. You mean 51 per cent. of them, do you? A. Well, that would cover the ground, wouldn't it?

XQ459. There were a lot of them that were not Paine doors? A. Not a lot of them, but there was a portion of them made in our factory.

4200 XQ460. Can you give us any idea how large that portion was? A. No, sir.

XQ461. Did you state about this portion that were not Paine doors in the affidavit that you made in the proceeding against Anderson to punish certain parties for contempt? A. I don't recall. Whatever I said in that affidavit was correct, that being fresh in my mind at that time.

XQ462. Is it any more correct than what you have testified to now? A. It was some six months

4201

or so ago. I might wander in regard to actual dates now.

XQ463. Would you say that it was 5,000 or 6,000 doors? A. Hardly.

XQ464. Dd you state in that proceeding against Anderson and others on November 15, 1911, as follows: "That accordingly another meeting was held several days later concerning this same matter, at which your deponent took down a written list of the doors of the Paine Lumber Company, Ltd., of the value of approximately $36,000." Did you so testify? A. I think I must have done so if it is in the affidavit.

4202

XQ465. Why didn't you say in that affidavit that there were a lot of doors that were not Paine doors? A. I don't say so now.

XQ466. There were a number of them that were not Paine doors? A. There are some doors in our plant at all times that are made by ourselves.

XQ467. Why didn't you say in that affidavit that there were some, instead of giving the impression that there were 12,000 Paine doors? A. Fifteen or twenty doors would not make any difference. If there were fifteen or twenty doors made in our plant, it would not cut much ice.

4203

XQ468. I asked you if you knew the number that were not Paine doors? A. I don't know.

XQ469. What are you speaking about fifteen or twenty not cutting any ice? A. It would be the same as 200 or 300. I have not the faintest idea of the number.

XQ470. There may have been two or three hundred; there may have been 2,000 or 3,000? A. There might have been, possibly.

XQ471. Is it possible there were a thousand?

4204 Edward Van Marter, for Complainants—Cross.

A. I don't think so; we don't manufacture doors ourselves.

XQ472. But you did not refer in that affidavit in any way to part of these doors not being Paine doors? A. I may not have done so, no.

XQ473. In that affidavit you speak of the carpenters not putting up certain doors; that is, on the Stagmeyer job, you refer to the carpenters not putting up certain Paine doors. Did you say anything in that affidavit that two of those doors were not Paine doors? A. Two of those doors
4205 were not Paine doors ,and they were hung by the carpenters.

XQ474. Why didn't you state that in the affidavit? A. There were two; that was a very minor matter.

XQ475. Didn't you think that these men were entitled to the benefit of that minor matter? A. I think it made the matter all the more serious, that they hung the two doors that were proven to be made in our factory and would not hang the ones made by Paine.

XQ476. Did you say anything in your affidavit about their hanging two doors that were made by
4206 you? A. I don't recall.

XQ477. Don't you know you did not? A. I don't know whether I did or not.

XQ478. You read that affidavit here at the last meeting? A. I may have done so.

XQ479. Didn't you? A. I read part of it, I sketched it over, I did not read it all through.

XQ480. Didn't you say you read that affidavit? A. I looked at it, yes; I did not look at it all the way through.

XQ481. Didn't you say you read the affidavit at

the last hearing? A. I read part of it, yes.

XQ482. Did you read part of it, or the affidavit? A. I sketched it through, I jumped from one paragraph to paragraph, I did not read it carefully, no.

XQ483. Did you read it, or didn't you read it? A. I think I have answered your question.

XQ484. That is the best answer you can make? Is that the best answer you can make? A. I sketched through the affidavit.

XQ485. I didn't ask you about sketching through; did you read it through? A. Part of it.

XQ486. Then you did not read the affidavit? A. 4208
I did read part of the affidavit.

XY487. Do you know what part you read? A. I read parts all the way through.

XQ488. There were parts you did not read? A. Parts that I did not read, yes.

XQ489. Now, as to the Happel job, did you say anything in the affidavit as to the Happel job—I am still referring to the affidavit you made in the motion to punish these men for contempt—that part of the doors on the Happel job were not made by the Paine people? A. The exterior cellar doors were made up in our plant.

XQ490. Did you say anything about that in your 4209
affidavit to punish these men for contempt? A. I don't recall.

XQ491. That was not a part of the affidavit that you sketched over? A. I don't recall what I said about that.

XQ492. Didn't you think it was your duty to refer to that when you were moving to punish these men for contempt? A. Refer to what?

XQ493. The fact that a number of these doors were not made by the Paine people? A. The doors

that were not made by the Paine people were not the doors that they refused to hang, they were not delivered until afterwards, the final wind-up of the job.

XQ494. Did you say that in your affidavit? A. I don't remember.

XQ495. Didn't you refer only to Paine doors in your affidavit? A. I referred to the Paine doors in my affidavit, yes, sir.

XQ496. And did you refer to any other than the Paine doors in that affidavit on any of the other
4211 jobs? A. I referred to the Paine doors on both jobs.

XQ497. And didn't refer to these other non-union doors? A. They were a very small matter, they were simply the small doors, and the two toilet doors.

XQ498. There were a dozen doors on the Happel job that were not Paine doors? A. No, sir; there were not but two, if my memory serves me right. I think that there were twenty-seven cellar doors, exterior cellar doors.

XQ499. That were not Paine doors? A. Not made by Paine.

4212 XQ500. And you did not refer to them in that contempt proceeding affidavit? A. I don't recall whether I did or not. Those doors at least had not been delivered at the time that they called the strike; it was the other doors, the interior doors, that they struck on.

XQ501. Well, the strike was called before any of the doors got there, I understand? A. Oh, no.

XQ502. What job are you talking about? A. The Happel job.

XQ503. About the Stagmeyer job, how about that? A. That strike was called previous to the doors being delivered.

XQ504. Before any doors were delivered? A. Before any doors were delivered, yes, sir; I presume they called the strike knowing that they were coming.

XQ505. I don't want your presumption, please. Now the Paine doors were not mentioned at any of these District Council meetings, as I understand it. Didn't you say, "There was an effort to avoid talking about the Paine doors"? A. You mean the 4214
name of Paine being used?

XQ506. Yes. A. I don't think the word "Paine" was mentioned at either of the meetings; not to my recollection.

XQ507. Well, what do you think was mentioned? Was anything mentioned referring to the doors? A. They simply said "those doors," that was about all.

XQ508. They did not refer to anything to designate the doors? A. Further than they knew the brand of door we carried. They referred to our doors that we carried in stock, which was the 4215
Paine door.

XQ509. Well, you carried others in stock? A. No, we do not carry any others in stock, except some odd doors here and there one. We have not made a business of carrying other manufacturers' stock in our door line at all. We have a few here and there through the plant.

XQ510. Your stock is diffrent, is it, from the time you submitted that list of 12,015 doors? A. No, sir.

4216 Edward Van Marter, for Complainants—Cross.

XQ511. It has not differed any? A. No, sir.

XQ512. There was no reference in any way at any of these District Council meetings to the word Paine or the Kore-lock door in connection with doors, as I understand it? A. As far as the actual Paine door being mentioned in so many words, I don't recall that it was used.

XQ513. That is, by any of the members present or yourself; you claim it was understood what was meant? A. It was technically understood, as far as I thought, at least.

4217 XQ514. Well, do you remember swearing in that affidavit to the following: "That the matter of hanging the Kore-lock doors of the Paine Lumber Company, Ltd., which had been purchased by the Hubbell Hardwood Door Co., was discussed generally by nearly all of the delegates present." Do you swear to that? A. I think I do. Those were the doors that were in question, and it was known to be such by all concerned.

Mr. Maloney: I ask that that voluntary statement be stricken out.

The Witness: That is a continuation of my

4218 reply.

By Mr. Maloney—

XQ515. Did you make the agreement with Mr. Schwartzler for the sale of the material on his job? A. Why, no, I did not make the first agreement.

XQ516. That was made by Mr. Martin, wasn't it? A. Yes, a salesman that is not now with us.

XQ517. Mr. Schwartzler has testified that Mr. Martin agreed with them that the material was to be union material? A. Well, I am sure I could not

answer anything in regard to what arrangement Mr. Martin made with Mr. Schwartzler. I know nothing whatever about it, in fact, I did not get it even from hearsay from him or any other source. 4219

XQ518. And did you know from Mr. Hubbell or Mr. Martin that union material was to be furnished to the Schwartzler job? A. The thing was never mentioned to me at any time.

XQ519. Did you see Schwartzler at any time after the difference arose between him and the workingmen? A. As soon as the difficulties arose I took the matter up with Mr. Schwartzler and carried it on. 4220

XQ520. And didn't he tell you that your people had agreed to furnish him union materials? A. No, sir; I don't think he ever mentioned it.

XQ521. Was Mr. Hubbell present at any conversation between you and Schwartzler? A. At one, I think, at his office.

XQ522. Was Mr. Martin present? A. No. Mr. Martin had left us previous to the beginning of delivery on the Schwartzler job.

Mr. Merritt: I want to object to this as not cross-examination. 4221

XQ523. Can you explain why Mr. Hubbell did not furnish union material instead of going about with this contempt proceeding against these men? A. Why, from my own personal knowledge, no. From my own belief I might answer.

XQ524. Didn't you agree with all of the men whose names you have mentioned, the other job in Tiffany street, the Happel job, to furnish them with union material? A. Union material; I think

the agreement was understood to be union made material.

XQ525. Well, how, then, do you explain your action afterwards in insisting upon punishing these men for contempt with respect to their refusal to work on these jobs, your contract requiring you to furnish union material? A. Mr. Happel came to our office and selected the Paine Kore-lock No. 377 door and purchased it at a lower cost than his original contract called for, in preference to his original arrangement.

4223 XQ526. In preference to his original arrangement? A. Yes.

XQ527. And you explained to him at that time that that was non-union material? A. I did not make the sale myself.

XQ528. Were you there when he came and made that selection? A. Yes, sir.

XQ529. Was it disclosed to him that that was non-union made material? A. I think he understood.

XQ530. It was made sufficiently clear to him? A. I think so, yes.

XQ531. Did Schwartzler do the same thing?

4224 A. Mr. Schwartzler understood from the beginning as far as my belief goes.

XQ532. That he could get this material cheaper than the union material? A. No, I did not say that.

XQ533. Do you think he understood that after you had agreed to furnish him union material, that he was then receiving non-union material? A. I think that Mr. Schwartzler understood; I think that Mr. Happel also understood, and did not expect to get any reduction, except that he was buy-

4225

ing a thinner door, the door that he selected was 1⅜ and he got a rebate on account of the original contract being 1¾ doors.

XQ534. What is the capital of the Hubbell Hardwood Door Company? A. Why, I should judge —well, I don't know, I would not like to answer the question.

XQ535. Is it a corporation? A. A company.

XQ536. A corporation or a firm? A. No, it is a firm.

XQ537. Have you any idea what their capital is? A. I should judge that they were worth around 4226
two or three hundred thousand dollars, probably.

XQ538. You mean their entire plant is worth that? A. Yes, I should judge so, yes.

XQ539. What does it consist of? A. It is nearly a block of buildings.

XQ540. Wooden buildings? A. Wooden buildings, yes.

XQ541. In New Rochelle? A. New Rochelle. Machinery——

XQ542. How many men do you employ there? A. I presume we have in the shop and warerooms and stables, etc., around fifty or sixty altogether.

XQ543. They are not carpenters altogether, 4227
some of them are assistants? A. Oh, no; they are loaders and wareroom men, drivers and so on and so forth.

XQ544. And do you base your statement about the capital upon the buildings and machines that you saw there, or do you know anything about the cost of those buildings and machinery? A. Well, I don't know the cost of the buildings and machinery, but I presume that they are worth at least that much.

XQ545. Are you a man experienced in that business, prior to your connection with Hubbell? A. In the trim business?

XQ546. Yes. A. Some thirty years' experience.

XQ547. And have you had any experience in the cost of machinery such as is used in his plant and the buildings? A. Well, I never was in the purchasing end of the machinery part of it, no.

XQ548. What machinery has he there? A. A full equipment of woodworking machinery.

XQ549. How many floors in the building? A.
4229 Three floors in part, four in part and two in part.

XQ550. Is there anyone else in this company besides Mr. Hubbell, or does he own it alone? A. Mr. Hubbell and, I think, his wife are owners.

XQ551. How did it come that the Hubbell Company with about $200,000 capital—assuming that that is the capital they have—had about $50,000 invested in these Kore-lock doors? A. Well, I don't know; our business rather requires it. We have done a big business in doors.

XQ552. Well, you had not done a big business in doors prior to the accumulation of this large quantity, had you? A. We have always carried
4230 about that number of doors.

XQ553. On your last examination you testified that your sales of doors you would not say exceed three or four thousand a year? A. Simply for the reason that I have never taken the trouble to check up how many doors the output were. I could easily find out, I presume, but I have not checked it up.

XQ554. Do you know whether these 12,000 doors have been paid for to the Paine Lumber

Company? A. I don't know of my personal knowledge, but I believe they have.

XQ555. Do you know whether they were taken on consignment from the Paine Lumber Company? A. I don't know that they were. I am quite positive they were not, because they have come in gradually, a carload at a time, as the orders call for ,in order to keep the stock up to a certain point.

XQ556. Mr. Schwartzler testified here that he understood the Hubbell Hardwood Door Company was the agent of the Paine Lumber Company. Do you know anything about that? A. I think Mr. Schwartzler, if he made that statement, made a very wrong one. 4232

XQ557. Do you know whether it is a fact or not? A. I am quite positive it is not.

XQ558. Did Mr. Hubbell ever tell you it was not a fact? A. I don't think I have ever asked him.

XQ559. You don't know of your own knowledge whether the Hubbell Hardwood Door Company is the agent of the Paine Lumber Company? A. I know that they pay their bills to the Paine Lumber Company the same as they do to other manufacturers. 4233

XQ560. Have you seen that done? A. I have seen it done, yes, sir.

XQ561. And did you see it done in the case of any part of these 12,000 Kore-lock doors? A. I don't know just exactly what the monthly consignments were. They were collective, not individual; monthly statements.

XQ562. Can you tell of your own personal knowledge of seeing any part of these 12,000

door accumulation paid for by the Hubbell Hardwood Door Company to the Paine Lumber Company? A. Why, no, my part of the business does not enter into the financial part at all.

XQ563. You are just a salesman? A. No, sir; I am superintendent of the plant.

XQ564. Does that mean the superintendent of the manufacturing end of the plant? A. The manufacturing, the office end. I have nothing to do with the bookkeeping and finance end. Mr. Hubbell attends to that end entirely, with his
4235 stenographers and bookkeepers.

XQ565. You know Mr. Nyland, one of these delegates, didn't you? A. I met him, yes, sir.

XQ566. When? A. The first time was down at the headquarters meeting, one of the headquarters meeting.

XQ567. Did you ever meet him anywhere else outside of that? A. I met him on the Hurlinger job.

XQ568. And anywhere else? A. At his house.

XQ569. Anywhere else? A. No, I believe those were the only three places I ever saw him.

XQ570. Did he go with you anywhere into a
4236 saloon? A. I think I did take him in and buy him a drink.

XQ571. What did you say? A. I asked him if there wasn't some way to clean up this matter without going into any further trouble.

XQ572. Anything else? A. Not that I recall distinctly. That was the purport and meaning of my visit.

XQ573. Did you offer to pay him any money? A. No, sir.

XQ574. Will you swear to that? A. I swear that

4237

I did not offer to pay him any money. I believe I told him that I thought there might be a nice present for him.

XQ575. Did you say what that present would be? A. I don't recall.

XQ576. Did you tell him you would give him a suit of clothes? A. No, sir. I told him he would be able to get a suit of clothes or an overcoat out of it.

XQ577. That's the way you put it? A. That's the way, I believe. That was simply a transmission of some other man's statement to me.

4238

XQ578. Did you tell him that you would give him a suit of clothes, overcoat and hat and would fix him up fine ,and did you subsequently offer him fifty dollars? A. No, sir; I did not.

XQ579. Your offer was limited to the overcoat and suit of clothes? A. I did not offer him that. I told him I thought he might be fixed up with them; that the architect and the contractor had told me that they were willing to fix him up.

XQ580. I see. That is, that Nyland was willing to be fixed up? A. No, that the architect and the contractor told me to inform him that they were willing to fix him up.

4239

XQ581. And who was the architect? A. Charles Stagmeyer.

XQ582. And who was the owner? A. Mr. Hurlinger; I don't recall his first name.

XQ583. And that was true, they had told you to try and adjust it? A. That they had intended to make him a nice present if it went through, that he had been very nice to him at the time of this trouble.

XQ584. At the meeting of the delegates you saw me there and Mr. Beattie there? A. I remember you; I think I did find Mr. Beattie there also. I think I saw him.

XQ585. Do you remember you offered some money to the delegates there to fix this matter up? A. I don't recall that I did.

XQ586. What did you say about the money, if anything? A. I think that I said this, that if they would agree to hang those doors that I would deposit with the organization the value of the
4241 doors, subject to our fulfilling our agreement to organize our plant satisfactory to their wishes.

XQ587. At any rate, you made some offer to give them some money? A. No, sir; I offered——

XQ588. In some form? A. I offered to deposit enough money to cover the value of those doors, subject to our joining their organization, whereby the money would come back to us, provided we would fulfill our agreement.

XQ589. They had no financial interest in the doors? A. They seemed to take quite an interest.

XQ590. Your people allege that they were in-
4242 terfering with the use of these doors? A. Yes, sir.

XQ591. But they claimed no ownership in the doors? A. No.

XQ592. Can you explain why you offered this money? A. As a pledge that we would keep our agreement with them, we would forfeit that money provided we failed to join the organization according to their wishes and according to their demands; if we failed, if they hung the doors and we failed to fulfill our end of the agreement,

I was willing to forfeit that amount of money.

XQ593. Did you tell them also that you were willing to give them a bond to indemnify them? A. I don't think I did; I may have done so, but I don't think I did. I was acting under instructions, and that is quite some time ago. I don't just recall everything that happened.

XQ594. When you first saw Simpson you saw him up at your shop in New Rochelle? A. I have known Simpson quite a while.

XQ595. I mean in connection with these matters? A. Yes, that was in our shop. 4244

XQ596. Then between that time and the time of the Happel job, did you see Simpson again? A. It was the beginning of the Happel contract or the time that Simpson began his visits to us.

XQ597. When was the Happel contract? A. I don't remember the date; I think it was somewhere along in June.

XQ598. Wasn't it earlier than that? A. It may have been earlier than June. I don't recall; it may have been May; I am not sure about the dates. I am not sure about the exact meetings, but I know that these things occurred.

XQ599. What did Simpson say to you at that tim, when he met you just at the commencement of the Happel job, or just prior to it, about the delivery of the material there? A Why, Simpson came up and wanted to find out—— 4245

By Mr. Mayer—

XQ600. Won't you give that conversation in question and answer form, just as it happened.

By Mr. Maloney—

XQ601. Will you please, assuming that you are answering in good faith, will you please put your answers in the form of I said to him and he said to me, and give the substances, according to your best memory? A. These conversations were not individual, they were collective; the conversation was carried on between Mr. Hubbell and Mr. Simpson, and Mr. Donlon or Dolan, whatever it is, myself and one or two more.

4247 XQ602. At that conversation at which you were present, please state what Mr. Simpson said to you, because you have given what purports to be his conversation before. I want you to state now what Mr. Simpson then said at that conversation? A. Why, his original call was for the purpose of finding out whether we had a union plant.

XQ603. His original call where? A. At our office.

XQ604. I am talking about the time you met him just before the Happel job. A. That is after the beginning of the Happel contract.

4248 XQ605. Didn't you see him between the time of the Happel contract and the time he called at the office? A. I closed the contract myself with Happel; I don't think I saw Simpson at any time during that period, from the time of my closing the contract until after it became known all over that we had the contract, and then at that time he called at our office.

XQ606. Had you not delivered the material on the Happel job when you next saw Simpson? A. I don't think so.

XQ607. What did he say then? A. He came up to see whether we had a union shop.

XQ608. Tell us what he said. A. Well, I don't just recall what he said.

XQ609. Give us the substance of what he said. A. He came up there and he said that the stuff that went on that job would have to be union made, and that he wanted us to tell him who the doors were being made by, and he wanted to know whether it was a union firm; he wanted us to state to him what the firm's name was that we purposed to buy them from, purposed to use on 4250
the job, and we referred him, as far as the union part of the material was concerned, we referred him to the New Rochelle organization, told him to go up there and see the delegates, and offered his access to the mill, to go through, and inquire from the men whether they had their cards, whether they were union men, to look the plant over.

XQ610. Was that the time that you refer to, when you state in your previous examination that you did not tell him what the material was, or where it was coming from, because at that time you did not know? A. I spoke of the doors. 4251

XQ611. The doors I mean. A. I did not tell him about the doors; in fact, personally I did not know at that time, at the beginning of this arrangement, at the first call of Simpson, what doors we would put on the job.

XQ162. I am talking of the second call now, not the first. You have referred to two, once when he first came there and the next time when you had made the Happel contract. A. Well, I don't know how I could answer that question.

The conversation was general. He was looking for information and we gave him about as much as we could.

XQ613. Did you tell him at that time about the injunction? A. No, at that time I don't think the injunction had then been issued.

XQ614. What makes you think that? A. Because at a later date after the injunction had been issued I think I spoke to him about it.

XQ615. Have you had occasion to think about when that injunction was issued since you testi-
4253 fied last? A. No, I could not tell you now.

XQ616. Have you conferred about it since? A. No.

XQ617. Has anybody informed you when it was issued? A. No, sir; I have not given it a thought.

XQ618. When was it that you referred to Simpson and told him that there was an injunction about the Paine doors? A. On the corner of Tiffany and 169th street, on the Happel job, right on the corner of the building, on the sidewalk.

XQ619. Was that before any of the material
4254 was delivered? A. No, sir. The store fronts were on the job—no, they were not, I think I was measuring for the store fronts.

XQ620. Was any of the material known as Kore-lock doors there at that time? A. No, sir.

XQ621. Was it at that time you told them about the injunction? A. He insisted on knowing what doors we were going to send on the job and I told him I did not know.

XQ622. Did you tell him about the injunction? A. I did.

XQ623. When was that? A. On the corner of 169th and Tiffany.

XQ624. When? A. At the time of the visit, I told you I met him on the job.

XQ625. Can you give us the month? A. It must have been along about the first of July, I should think. I have not the faintest idea of the date. But it must have been along in there.

XQ626. Did you know the injunction was issued at that time? A. I believe my attention had been called to it.

XQ627. By whom? A. I don't know now; I think Mr. Hubbell.

XQ628. Did you see it, the injunction, a copy of it? A. I believe I read it over, yes.

XQ629. Who showed it to you, Mr. Hubbell? A. I don't remember.

XQ630. Can't you recall where you saw it? A. Yes, I saw it in our office, I think it was Mr. Jones who first called my attention to it.

XQ631. Who was Mr. Jones? A. A man that was in our office at the time.

XQ632. One of the employes? A. Yes, he was there.

XQ633. A clerk? A. A sort of a clerk, yes.

XQ634. How did he come to show it to you? A. I don't know. The question had been quite talked of in regard to these Paine doors.

XQ635. And you read that injunction over? A. Yes, sir.

XQ636. And did you take a copy of it with you? A. No.

XQ637. Did you hear that injunction discussed at the office before, as you say? A. I don't think I had heard anything of it up to that time.

XQ638. The first time you heard about the injunction was when this Mr. Jones showed it to you? A. I believe it was, yes.

XQ639. Is he in your office yet? A. No.

XQ640. What was his position there? A. I don't know just what he did do, an official capacity.

XQ641. You don't know what his office was? A. A sort of stock taker, or something of that kind. He looked after the stock arrangement and so forth.

4259 XQ642. Do you know where he got that copy of the injunction? A. Well, I presume—no, I don't. It was public property, you know.

XQ643. Did Mr. Hubbell speak to you about the injunction at all? A. We talked it over at times, yes.

XQ644. Before Jones showed you this injunction? A. No, sir; not until after.

XQ645. Did Jones tell how he got this injunction? A. No, sir.

XQ646. At the time you were having these difficulties with these jobs there was a dispute, was there not, between the Joint District Council
4260 representatives and your people as to the number of hours that your carpenters were employed? A. Well, I could hardly call it a dispute. We submitted proofs that we were working union hours called for by the New Rochelle organization, fifty hours a week, and paying more than the union wage, and they demanded or requested that we change to the New oYrk rule of 48 hours a week, which we agreed to do providing they would deal with us.

XQ647. And as a condition of their dealing

with you you wanted them to agree to install the Kore-lock doors which you had in stock? A. A part of them.

XQ648. When you made this offer before the delegates to put up a certain amount of money with them, the value of those doors as you put it, what doors were you referring to? A. To the fifty-six doors that were on the Hurlinger job at that time, which was holding that job from completion.

XQ649. What did you pay the Paine Lumber Company for those fifty-six doors? A. I could 4262
not tell you.

XQ650. How was that material, about the value of those fifty-six doors in this discussion? A. Approximate; it is only approximate; each and every different size of door cost more or less.

XQ651. They were three or four dollars apiece, were they not? A. That is the way we approximate, you know, about $3 or $3.50 apiece.

XQ652. In order, then, to make this arrangement with the workingmen, you were satisfied, if necessary, to lose the money which you offered to put up, the $3 or $4 a door, for the fifty-six doors? 4263
A. That was not the purpose, the purpose was—

XQ653. Wait a moment. Was that right? Your firm was willing to part with that amount of money represented by the value of those doors, $3 or $4 a door? A. Our purpose was——

XQ654. Never mind your purpose, I want the fact. Is that the fact? A. That was not our intent.

XQ635. You were satisfied to give up an amount of money equal to the value of those doors, of $3 or $4 a door, whatever their value

was, is that right? A. For the purpose of——

XQ656. Never mind the purpose, you can make any explanation you like later. But let us get rid of this examination first in a direct way. A. I was willing to deposit that.

XQ657. And you were satisfied to lose that, if necessary, in order to have a satisfactory agreement with the men by which they put up these fifty-six doors? A. If we did not keep our agreement with them I was satisfied to lose it.

XQ658. That was the only amount of money,
4265 then, that was all involved, so far as you were concerned, at that time? A. At that one particular time.

XQ659. Why didn't you take the fifty-six doors out and put in other doors at that time? A. It was against our principles.

XQ660. It was a question of principle? A. Positively.

XQ661. In a dispute between you and the workingmen? A. Not necessarily so.

XQ662. Did the principle involve any other concerns besides you? A. It was a principle in that when we had money in our pocket we did not pro-
4266 pose to take other money out to fill an obligation.

XQ663. Was there any other firm or corporation involved in these principles besides yourself and the workingmen? A. No, we had paid for these doors and did not want to lose the money.

XQ664. The Paine Lumber Company was in no way involved in the enforcement of this principle for which you stood? A. I don't just understand your question.

XQ665. The Paine Lumber Company were in no way involved in the enforcement of this prin-

ciple for which you stood? A. I don't like to answer that question for fear I might make a misleading reply. They were and they were not. They were not as far as we were concerned; they may have been indirectly.

XQ56a. uBt you in no way were seeking to enforce this principle for their benefit? A. Positively not.

XQ657a. You stated on your last examination that you had informed the workingmen that you could dispose of those doors in other places. A. We could dispose of a great many of them. 4268

XQ658a. How about the fifty-six? That was a very small infinitesimal part? A. They had already been delivered on the job.

XQ659a. Wasn't that only a very, very small part of the entire lot? A. Yes, certainly, it was a small item.

XQ660a. Why were you so anxious to stand on the principle with regard to the fifty-six doors when you stated to the men that you could dispose of a lot of these in other places? A. We did not want to establish a precedent that we were forced to take the doors from the job, which we did not. 4269

XQ661a. Were you determined to make these men put up the fifty-six doors, even if you had to resort to this injunction? A. No, sir; we had already sold the doors. It was simply a matter of friendship on our part that we interested ourselves in the matter. It was not our funeral whether they were put up or not.

XQ662a. How many meetings did you have with Simpson altogether? A. Oh, I don't know exactly, three or four, or more.

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XQ663a. You cannot state specifically how many, nor where? A. No, not positively; they were in three different places, it was at our office, at the shop and at the organization meetings.

XQ664a. Did Mr. Hubbell instruct you to inform the men or any representative of the men that there was an injunction outstanding in favor of Paine? A. I don't think he did.

XQ665a. You did that of your own initiative, then? A. I did, I told him myself.

XQ666. You don't know now when that injunction was issued? A. I could not recall the date.

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XQ667. How many talks did you have with Donovan? A. Why, I met Johnnie three or four different times.

XQ668. Did you know him before these occurrences? A. I have known him ever since he was a little bit of a boy.

XQ669. And do you wish to be understood as stating that Donovan expected to receive some money in consideration of his putting the men back on the job? A. No, he did not so state to me; he said he thought he ought to get something out of it, but he did not apply that to us.

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XQ670. Did you tell him at that time that some of the men were getting money? A. I told him it was so understood.

XQ671. And was that the fact, that it was so understood? A. Mr. Happel's own statement.

XQ672. Then you had been informed by Mr. Happel that somebody was being paid for leaving these men on this job? A. Mr. Happel stated that he had paid $400.

XQ673. Did he state to whom he had paid it? A. To the delegates.

XQ674. Did he name them? A. No, sir.

XQ675. He did not name them even to you? A. No, sir; he did not say their names; I don't think he knew them.

XQ676. What did he state he had given the money for? A. So that he would not have any further trouble on the job.

XQ677. After the strike had occurred? A. I think that was previous to the strike.

XQ678. Before they had had any trouble at all? A. Before they had struck the job.

XQ679. What was it you said to Donovan about 4274
the use of the injunction? A. I told him that I understood that that injunction was liable to apply very strongly against him if he insisted on being responsible for keeping the strike going.

XQ680. And you mentioned the Paine injunction? A. I think I did.

XQ681. Did he say he did not know anything about that? A. Said he had heard all about it.

XQ682. And then he immediately went and put the men back again? A. He did, within the same hour.

XQ683. Did not Donovan tell you that he did not know anything about what the material was, 4275
but that he thought it was non-union material? A. He said he understood it was non-union material; that was why he had been ordered to call the strike.

XQ684. When you informed him that there was this injunction, didn't he tell you he would put the men right back, because he did not want to be made the scape-goat, that he knew nothing about this injunction? A. No, he knew all about the injunction, but he did not want to be made a

scape-goat of.

XQ685. And that it was through fear of the injunction that he put the men back? A. I don't know about that.

XQ686. Isn't that what you understood? A. No, I think he put them back on the strength of the appeal I made to him through as much friendship as anything else.

XQ687. Wasn't it within half an hour or an hour that he put them back? A. It was within an hour after I had the talk with him in the sa-
4277 loon across the way until they began hoisting the doors.

XQ688. Dd you offer him any money? A. No.

XQ689. Did you stay with him until he put the men back? A. I stayed around until the men were beginning to work.

XQ690. You saw Donovan all that time? A. He was backwards and forwards, I saw him for an hour or so.

XQ691. Around the building? A. Yes.

XQ692. He did not communicate with anybody else? A. I saw him talking with Mr. Happel.

XQ693. But he did not communicate with any
4278 of the representatives of the union? A. I don't know, I am sure.

XQ694. You did not see him? A. No.

XQ695. And you saw him going back and forth between Happel and you? A. Yes, and with the boss carpenter around the building, I guess, until 3 o'clock in the afternoon, a couple of hours.

XQ696. So he had no opportunity to go down to 59th Street and confer with anybody? A. I am sure he did not have the time to go anywhere, except any conversation he must have had with

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anybody must have been over the 'phone, or around the building.

XQ697. Did you see him talking with anyone over the 'phone? A. No.

XQ698. And you did see him personally talking to Happel and with the foreman? A. With Happel and the contract carpenter and myself around the building two or three hours; half an hour possibly elapsed that I did not see him at different times.

XQ699. There were? A. There may have been, yes.

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XQ700. How was that? A. I stayed around different parts of the building, looking it over. As far as I believe I don't think he got any information to put the men to work; I don't believe he did.

XQ701. You think he did that on his own—— A. I think he did it on his own violition, yes, and I don't think he did it on the fear of the injunction, either, I think he did it for personal reasons.

XQ702. You mean for your benefit, for you personally? A. For old friendship's sake, I imagine, yes.

XQ703. Why did you put this language in the affidavit about him, attributing some sordid motive to it? A. Sir?

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XQ704. Why did you put into this affidavit these allegations which intimate some sordid motive on his part? A. That affidavit is a positive fact of our conversation, exactly as it was uttered. He said in those words that he thought he ought to get something out of it.

XQ705. And did you understand from that that Donovan was asking you to give him some money? A. No, sir.

4282 XQ706. Then you did understand that Donovan, instead of being in fear of the injunction, was actuated by friendship for you in putting the men back? A. I think that that was the prime cause of his doing it on the spot right then and there.

XQ707. You did not see him at all afterwards? A. I saw him several times afterwards.

XQ708. Nothing that you ever referred to in your affidavit? A. Oh, no, I saw him down at the meetings several times later, and I saw him at
4283 different times later. Mr. Donovan did not ask us to produce any money in the matter.

XQ709. But you represented to him that somebody did get money? A. I represented to him, or rather told him, that it was common information around the place that his colleagues had gotten money.

XQ710. And you did not hear whose names they were? A. I knew who the people were who were supposed to have gotten it.

XQ711. Who was it? A. Simpson and Donlan.

XQ712. Donlan or Dalton? A. I don't know
4284 which.

XQ713. They had not called any strike on the job? A. No, sir; but they had been running the job up to the time this strike was called, when they called in Donovan to do the work. Donovan was instructed to call the strike.

XQ714. Then, as a matter of fact, there was no strike at all and there was none on the job up to the time you saw Donovan? A. The strike was called previous to my going down there.

XQ715. Who called the strike, Donovan? A.

So I understood, yes, after the doors had been delivered.

XQ716. How long before that had you been on the job? A. I was down there every two or three days, two or three times a week.

XQ717. Was the strike called by Donovan on the day you were there? A. No, one or two days previous, but I went down there immediately I learned of it.

XQ718. And that is the time you saw him? A. That is the time. I did not know he had called the strike then; I supposed it was Simpson.

XQ719. There had been no strike before that on the job, had there? A. No strike on the job previous to the doors being delivered, to the best of my knowledge and belief.

XQ720. And Simpson and Dalton or Donlan, whoever it was, had not been there since the material was delivered? A. They were there every day, as near as I could learn.

XQ721. Did you see them? A. Once or twice.

XQ722. And how long before this strike was it? A. Right from the beginning of the delivery there. They were policing the job right along, according to Happel, they were threatening to call a strike, something to that effect. It was his statement made in public, in the presence of Mr. Happel and myself and others.

XQ723. You say that the money was to be paid to these men so as not to have any trouble or strike on this job? A. Well, Happel told myself and another that he drew $400 from the bank and paid it to them on the sidewalk.

XQ724. So as not to have any trouble on the job? A. So as not to have any trouble on the job.

That they threatened to make trouble if he did not make good.

XQ725. Did you say this to Donovan—"deponent stated that he heard that hush money had been paid to William Simpson and Donlan to call off this strike"—did you say that to Donovan? A. I said that hush money had been——

XQ726. Did you say that to Donovan? A. In those words?

XQ727. In those words? A. I can't recall the exact wording.

4289 XQ728. You know you swore to that? A. Whatever I said in that affidavit is correct.

XQ729. I will show you that affidavit, and see if you did not say that—the last two lines,—in that affidavit of yours? A. "Your deponent stated that he heard that hush money had been paid to William Simpson and Donlan to call off this strike."

XQ730. Is that what Happel told you? A. Happel's statement was——

XQ731. Is that what Happel told you, what you have said in that affidavit? A. Well, I don't know whether that's the wording, whether that is exactly

4290 right or not.

XQ732. Don't you know whether he said that or not? A. Not in just those words, but that is the import of it.

XQ733. When did you make the contract with the Happel people? A. I think I had the contract signed up the latter part of April or some time in May. I won't be just sure about the date. If my memory serves me right, it was, I think, in April.

XQ734. Can't you tell when that material was

delivered or when they started on that job? A. The material was delivered I think along in the middle of June, I won't be sure.

XQ735. Wasn't it before that material was delivered there that you saw Simpson when you had this talk with him about the injunction? A. When I talked with him about the injunction was after the material was on the job, not the doors.

XQ736. How long was it? A. I don't know, probably around the first of July, I could not tell you. It may have been later than that, it may have been earlier, I don't recall those dates. 4292

XQ737. There were not any of these doors that you have referred to on this job at all, were there, at the time that Donovan ordered the strike? A. They were, I think, all there.

XQ738. The carpenters had not gone to work at all on those doors, had they? A. I believe they had started to hoist them up on the floors, I think so, yes. In other words, I think that they were watching and waiting for the doors to arrive.

XQ739. In other words, what? A. I think that they were watching for them to come.

XQ740. And when they came you think the strike was ordered? A. Simpson threatened that as soon as they struck the job he would have the men called off. 4293

XQ741. Can't you answer the question I asked you just a moment ago? A. When the doors were on the job, the first intimation we had after delivering the doors, there was a strike on.

XQ742. Do you remember saying this in your affidavit, that the said John T. Donovan then told your deponent: 'Now you have got your cue. Get the doors on the job as quickly as you can' "? A. That statement referred to another job.

XQ743. The Tiffany? A. No, to the Hurlinger job in 151st Street.

XQ744. Did Donovan have anything to do with that? A. No.

XQ745. Where did you have this conversation with Donovan? A. Down in the headquarters, 59th Street.

XQ746. He told you that at the meeting of the delegates? A. After the meeting was over, yes, he said to me: "Now we have called the strike off and you have got the cue, go on and get your doors
4295 on the job."

XQ747. Are those the 56 doors you are referring to? A. That is the 56 doors, yes, sir.

XQ748. Then those doors had not been delivered on the job at all? A. Those had not, no.

XQ749. Then it was after that that you say that Nyland visited the job and the men went off work on that job? A. Yes, sir. Well, I believe after the doors were delivered, Nyland went on the job, I was informed, and ordered the men not to hang the doors, but to do all other work on the job, to complete everything else.

By Mr. Mayer: I move to strike out what he
4296 was informed by somebody else.

XQ750. Then it was after that that you saw Nyland and spoke of this suit of clothes, is it? A. I believe it was one night at the meeting that I saw Nyland and told him I wanted him to try and fix the matter up in some way for us, that Mr. Hurlinger and Mr. Stagmeyer, the architect, who had entire control of the operation for Ehret, the brewer, was awfully anxious to get that work completed, as the property had been leased by some hotel man, and it was an immense loss to them if

they could not get through, and that they had told him that they had purposed to make him a nice present providing he would see some way to get them through.

XQ751. Was it how long after that strike was called by Nyland that you made this offer of the suit of clothes? A. This was after the strike had been called and been out for a few days, and the men had been put back to work, and then the order went out that they could finish everything but the doors, that was the time I saw Nyland, after all this trouble had been gone through except the 4298 doors.

XQ752. And Nyland was the one that gave that order? A. Nyland was the one I was told gave the order, by the men and by the contractor.

XQ753. Do you know Elbridge H. Neal? A. I know him by sight.

XQ754. What kind of a looking man is he? A. He is, I should judge, a little over medium height, slender, I think a small dark moustache, as near as I can remember; the secretary of the organization, you refer to?

XQ755. Yes. How did you know him? A. By meeting him different times, different places. 4299

XQ756. Introduced to him, were you? A. I don't think I was.

XQ757. How do you know that the man you thought was Neal, was Neal? A. I have been told that it was Mr. Neal.

XQ758. Somebody pointed him out to you? A. No, I don't know that they did.

XQ759. As a matter of fact, you never met Neal, were never introduced to him, and could not swear who he is. A. I could swear who I was told was Neal.

XQ760. I asked you a moment ago if anybody pointed him out, and you said no. A. I said I had been told that that was his name.

XQ761. Did anybody that you can name, point out the man and say to you, "That man is Elbridge H. Neal"? A. Why, I don't recall even who gave me the information. I am quite positive that I would know him if I met him.

XQ762. How many times did you came to the office of the American Anti-Boycott Association? A. I think I was never here but once until our last
4301 meeting here.

XQ763. Was that the time that you made that affidavit? A. I think it was.

XQ764. Who asked you to come here? A. I think I was notified by Mr. Merritt.

XQ765. Did you know Mr. Merritt personally? A. Why, I had heard of him.

XQ766. Through whom? A. Through our firm.

XQ767. Hubbell Hardwood Door Company? A. Yes, sir.

XQ768. Did Mr. Hubbell give you the name? A. I don't know; I rather think I got the informa-
4302 tion first by letter.

XQ769. From the American Anti-Boycott Association? A. From Mr. Merritt.

XQ770. Have you got the letter with you? A. No, I have not.

XQ771. Was it addressed to you or to the Hubbell people? A. Addressed to me; in fact, all my communications from this office have been directed to myself.

XQ772. You don't know where the letter is? A. I think it is in the waste basket, probably thrown

out long since. I want to say, gentlemen, I am entirely disinterested personally in the matter; I have no interest in it at all one way or the other. I have been drawn into it and carried it out on business principles, that is all.

Mr. Mayer: I move to strike that out as unsolicited testimony of the witness.

Mr. Beattie: Same motion.

Mr. Merritt: I think he should be allowed to make the statement.

XQ773. Did you threaten any of these men with arrest if they did not do certain things in connection with the doors? A. I did not threaten anyone, 4304

I told some of them I believed that they were very liable to get into trouble if they did not let go. I think I made an open statement in the meeting that if they would not accede to any of our requests and solicitations, that we would have to take the other end of it.

XQ774. That you would have to proceed under the injunction? A. That is what I meant.

XQ775. What meeting was this? A. I think I made that statement the night you were there.

XQ776. Sure about that? A. No. I won't say 4305
that, because those meetings were collective, and any statement I make in regard to them I could not state any individual I saw on any individual night, but these men and the times and cases all transpired, but they were all mixed up together. I could not tell you which was which, but I know these things happened at that place and at these different times.

XQ777. Did you tell Nyland that you would have him arrested if he interfered with the hang-

ing of the doors? A. I did not. I told him he was liable to be arrested.

XQ778. Did you tell Neal that he would be arrested if he interefered with the hanging of the doors? A. No.

XQ779. Did you tell Rice that you would have him arrested if he interfered with the hanging of the doors? A. I told Rice that I thought he was liable to get into trouble.

XQ780. Did you not tell him that you would have him arrested if he interefered with the hang-
4307 ing of the doors? A. I don't think I did it.

XQ781. Don't you know you swore, "Your deponent told said Nyland that he would have both him and Rice arrested if they interfered with the hanging of the doors"? I will show you your affidavit. Do you want to change the language you made in that affidavit? A. It might be. I don't know the exact wording. I told them that they were liable to be arrested. I may have made that statement in those words.

XQ782. You are not sure about it? A. I am pretty positive, if it is there, because that affidavit was made while everything was fresh in my mem-
4308 ory.

XQ783. And now your memory is not so clear? A. Not the exact wording of my statements, but that is what I meant, that they would no doubt be punished if they kept on interfering with our business.

XQ784. And just before you took the stand to testify this last time you read this affidavit there? A. No, sir, I simply sketched through the affidavit last time to see if I could refresh my memory in regard to dates, that is all; I did not read it all the

way through, in fact, I did not see it only for a few minutes.

XQ785. Did Mr. Hubbell accompany you at any time when you went down to this workingmen's meeting in 59th Street? A. Yes, sir, he was down with me once or twice, I am not sure.

XQ786. Did Schwartzler go with you at any time? A. No, sir.

XQ787. Are you able to give any explanation so far as the Hubbell Hardwood Door Company is concerned, why they should insist upon attempting to make use of the Paine Lumber Company against 4310
these men, when they had agreed to furnish union material? A. I can.

XQ788. Let us hear what that explanation is. A. The explanation is within a nutshell. We had these doors in our warerooms that we had paid for and we simply wanted to dispose of them. We did not make any effort for to punish these people for anything, use any information to any society or anything else, until they flatly refused to let us use them.

XQ789. You mean that they would not work on them at all? A. They refused to hang one of them until they were compelled to. 4311

XQ790. You had no grievance about that, against the union men, because they would not work on your material, did you? A. I think if a man had a gold dollar——

XQ791. Never mind the gold dollar. A. —he should not be compelled to buy another.

XQ792. Did you have any grievance against them because—— A. We positively had a grievance.

XQ793. Why didn't you go and get somebody else? A. We were not interested in the hanging of the material.

XQ794. That is the very reason I am asking that question. You had no grievance because these men would not work on your material, did you? A. Indirectly we did.

XQ795. Only indirectly? A. Our contractors come back to us for redress when they cannot get their material put up.

XQ796. You had sold this and they were paid
4313 for? A. We were not paid for them.

XQ797. I thought you said you had been paid for them. A. We had not been paid for them, but we had paid for ours.

XQ798. Did the contractors refuse to take the material because you had not carried out your contract? A. No, sir.

XQ799. Then what interest did you have in the matter? A. Because they came to us to assist them in putting up the material, which we did so, and did everything we could.

XQ800. Your idea was to assist them to get
4314 that material put up, that you would make use of this Paine Lumber Company injunction? A. Not until we had used every other effort possible.

XQ801. Why, wasn't the simplest way to carry out your contract by furnishing union-made material? A. We furnished what we sold.

XQ802. Then did you intend to mislead the people to whom you sold the material that it was union, or did you believe that it was union material? A. No; we knew very well it was not union-made material, according to the rules fixed by the New York organization.

XQ803. Then you did not expect that these men would work on it in violation of their rules? A. We had good reason to believe they would.

XQ804. You mean you thought that they would do it under the injunction? A. We thought they would do it previous to the injunction, they had been doing it right along.

XQ805. Working on this same material? A. The same material for years past.

XQ806. Paine Lumber Company material? A. Yes, sir.

XQ807. And had you been selling that as union material before that? A. We had been selling it as doors. †316

XQ808. I mean, as union made doors? A. We don't stamp our materials union made.

XQ809. You did represent to Mr. Schwartzler, according to his testimony here, that the material would be union made material? A. We have got a union factory.

XQ810. And is that what you meant by the representation to him? A. We were selling him goods from a union mill. We did not deceive Mr. Schwartzler, no.

4317

By Mr. Maloney: I move to strike that out. I did not ask for that answer.

Re-Direct Examination by Mr. Merritt—

RDQ811. Mr. Van Marter, in regard to these contracts for material, taking the Hubbell job for instance, did you allow the purchasers to believe that it was union doors you were furnishing when you were furnishing non-union doors? A. I don't think that the question ever arose.

4318 Edward Van Marter, for Complainants—Cross.

RDQ812. Didn't you testify that you had a contract with them to furnish union material only? A. No, we never made any such a contract with anybody.

RDQ813. What did you mean when you said you made a contract for union material? A. We are running a union mill.

RDQ814. Were these contracts in writing? A. Positively so, yes, sir.

RDQ815. Was there any clause in them calling for union material?

4319 Mr. Maloney: I object to that unless the document is produced.

Mr. Merritt: In view of counsel's objection, I move that all reference to the written contract or to the construction of the contract and the examination of this witness by any of the parties be stricken out.

A. I don't think so.

RDQ816. Was there any mention made of the Paine Lumber Company when you were at the headquarters of the Union on 59th Street? A. You mean in the direct words of the Paine Lumber
4320 Company, the name?

RDQ817. Yes. A. Why, I don't recall, there may have been.

RDQ818. Either in the meeting room or when you were in the outer room? A. Why, it was quite often mentioned when we were not in executive meeting.

RDQ819. You don't recall any mention of the name Paine Lumber Company when you were waiting outside of the meeting room? A. Why,

yes, there was an instance there, and there has been an instance several times where the Paine Lumber Company name was used.

RDQ820. State what these were? A. At different times, talking to the different delegates. I made no bones about using the name of the Paine Lumber Company, neither did they.

Mr. Maloney: I move to strike that out as indefinite, incompetent, irrelevant, immaterial; it does not specify anybody.

Mr. Merritt: I consent that that be stricken out. 4322

RDQ821. Answer my question as to whether you recall any mention being made by Rice, Simpson, or any of the delegates, about the Paine doors, when you were waiting at the headquarters of the Joint District Council? A. Yes, one evening after this whole thing had got down to an awful close issue, where they had absolutely refused to grant us any redress whatever, I met Simpson out in the hall for one, and I said to him, I said, "Some of you fellows are going to get into trouble over interfering with this business, with these doors." I said, "They are just as good a door as ever made in the market, they are used by everybody, everybody's selling them in New York, and your men are all hanging them, and somebody is very liable to go to State's Prison." He said, "There are a lot of men would like to go to State's Prison to keep women and children from working in the Paine mill, or any other non-union mill." Simpson does not make any bones about it, nor any of them, but the word was technically left out at any 4323

4324 Ed. Van Marter, for Complainants—Re-direct.

of the executive meetings, as far as my memory serves me. Everybody knows what the whole thing was, there was no use beating about the bush. The Paine doors, on these two or three occasions, was the only thing that was called for, the only trouble. We had the doors to sell and we sold them and they were put up.

RDQ822. You are here under a subpoena, are you not? A. Yes, sir.

Mr. Mayer: I move to strike out all the testimony given by this witness, the examination
4325 of all counsel having been had, on the ground that it is incompetent, irrelevant, immaterial, is to a very large extent hearsay, and all of the facts or alleged facts stated by the witness are happenings after the issuance of the injunction in this proceeding, and after the pleadings were framed, as not being within the issues, and as tending in no wise to prove the conspiracy alleged in the pleadings.

Mr. Maloney: I join in that motion.

Subscribed and sworn to before me)
this day of , 1912)

4326

Adjourned to Wednesday, March 13, 1912, 2 P. M.

Frederick Heather, for Complainants—Direct. 4327

PAINE v. NEAL.

Wednesday, March 13, 1912, 2 P. M.

APPEARANCES:

COMMISSIONER SHIELDS,
WALTER GORDON MERRITT,
for Complainants,

CHARLES MAITLAND BEATTIE
and
WILLIAM MALONEY,
for Dfts. Neal and others, 4328

EIDLITZ & HULSE,
for Dfts. Gethy and others.

By MR. MAYER,
WILLIAM BUTLER,
for Dfts. Murray & Hill and others,

By MR. MAYER,
C. J. HARDY,
for James Elgar, Inc.

By MR. CORNELIUS J. HICKEY.

4329

FREDERICK HEATHER, a witness called on behalf of complainants, being duly sworn testified as follows:

Direct Examination by Mr. Merritt—

Q1. You are superintendent for Albert Schwartzler? A. Yes, sir.

Q2. How long have you been employed by him in that capacity? A. Fifteen months.

Q3. Well, you were superintendent for him in

4330 Frederick Heather, for Complainants—Direct.

connection with the construction of certain houses on Clay Avenue between 166th and 167th Streets, were you not? A. I was.

Q4. Were you there when the carpenters first came to work on the building? A. Yes, sir.

Q5. Do you recall the date, or approximately the date? A. The 13th of November, 1911.

Q6. Did the carpenters come to the job on the morning of that day?

Mr. Mayer: I object to this testimony as incompetent, irrelevant, immaterial, in that it seeks to bring forth or elicit from the witness

4331 testimony as to happenings after the joining of issue by the pleadings, not tending in any way to prove any conspiracy as framed by the pleadings and not pleaded.

Mr. Maloney: Same objection, and also as an effort to make out a cause of action different from that attempted to be pleaded, and an attempted cause of action where none has been pleaded.

A. Yes, sir.

Q7. Were you on the job all that day? A. Well, up until about four o'clock.

4332 Q8. Did you return to it after four o'clock? A. Yes, sir. Returned there in the neighborhood of six.

Q9. You were away between four and six? A. Between four and six, yes.

Q10. The carpenters were not working on the job when you returned? A. Oh, no, they quit at 5 o'clock.

Q11. Now you came to the building on the morning of the 14th of November? A. Yes, sir.

Q12. Were the carpenters at work then? A. No, sir.

Q13. Did they go to work on that day? A. They did not.

Q14. Did you see them about the building? A. Yes, they were all standing around there.

Q15. And did not go to work? A. Did not go to work.

Q16. Who was the contractor employing the carpenters? A. Cohen & Naviasky.

Q17. Did the carpenters hang around the job all that day? A. Well, no, not all day. Shortly 4334
after eight o'clock they left the job and said they were going down to the local.

Q18. That is, the local union? A. The local union, as they had been ordered so by the delegate.

Q19. Well, how long after that was it that they returned? A. About an hour or an hour and a half.

Q20. Did you have any conversation with them as to why they did not go to work? A. I did.

Q21. Whom did you talk with? A. Mr. Stern.

Q22. What did Mr. Stern say?

Mr. Beattie: Same objection, and there is 4335
nothing to indicate that any talk with Stern can be at all binding upon these defendants; hearsay.

A. I asked Mr. Stern why they did not go to work, and he said they had been ordered out by the delegate, so I asked him for what reason; he said, "Because the trim is non-union trim." So I said, "Haven't you got a letter from the Local Union of New Rochelle stating that this trim is union?" He said, "Yes, I have that letter, I took

4336 Frederick Heather, for Complainants—Direct.

that letter and read it off at the Local but the delegate Anderson says you can buy them any time for five dollars. So I turned around and asked Anderson, "Are you buying any?" and he said, "I don't mean that——"

Mr. Maloney: That is what Stern asked him?

A. That is what Stern told me, at the union he asked the delegate if he was buying them.

4337 Mr. Maloney: Objected to, incompetent, irrelevant, immaterial, hearsay, in no way binding on these defendants.

Mr. Mayer: Not tending to prove any conspiracy alleged in the pleadings, and as having occurred after the joining of the issue.

Q23. Did you have any talk with any of the other men as to why they would not go to work? A. No, I merely asked them if they were satisfied to go to work. They said yes, they were perfectly satisfied, but the delegate would not allow them.

Q24. That is, certain of the carpenters who had
4338 been working on the building stated that to you? A. Yes, sir.

Q25. Where did they state that to you? A. Right in the street, right in front of the buildings.

Q26. When they were hanging around the building? A. And also inside, while they were playing cards. They used to play cards in one of the rooms.

Mr. Maloney: Objected to on the same grounds, hearsay, nobody identified or spec-

ified with whom the conversations were had; hearsay; not pleaded; occurring subsequent to the joining of issue.

Q27. Were you present at a meeting in Mr. Schwartzler's office, where these carpenters were called in and had a conference with Mr. Schwartzler? A. Yes, I was the one that sent them to the office.

Q28. You asked them to come up to the office? A. Yes, sir.

Q29. When was that? On the 14th of November? 4340
A. Yes, on the 14th of November, the next day.

Q30. And you went up into the office yourself? A. Yes, sir.

Q31. What did you see up there, or hear? A. I told them all to go in. Three or four of them were left at the job, so I went down and brought them up. Then I left the office and went back to the buildings again. Just as I came in, Mr. Schwartzler had a typewritten paper in his hand, and he said to them, "Well, you gentlemen all swear to this, it is true?" And there was a general response of "Yes."

4341

Q32. Well, now, did these carpenters report at the job on any day subsequent to this? A. Almost every day.

Q33. For how long? A. For fully two weeks. They would come there, well from eight o'clock up to ten in the morning. They would sit in the room and play cards for probably four or five hours.

Q34. Did you see Stern on the job during this period? A. Every day he was there.

Q35. Doing the same thing? A. He did not

play cards as much as the rest; he generally looked around, supervising affairs.

Q36. Was Stern there for any longer period of time than the others? A. Yes, Stern came there for two or three days after the others ceased coming around.

Q37. Did you have any conversations with him? A. Well, I met him one Saturday morning, I believe it was on the sidewalk, and he was in rather a pleasant mood, and I said to him, "Well, Mr. Stern, you seem to be very joyful this morning."
4343 He said, "I ought to be." I said, "Why?" He said, "I just received my money." I said, "From whom?" He said, "From the Union." I asked him, "For what reason?" He made no answer, just turned and walked into the building.

Mr. Maloney: I move to strike out this testimony as incompetent, irrelevant and immaterial, hearsay, not pleaded, and as relating to matters occurring since the issues were framed, and for the purpose of attempting to establish some alleged cause of action not existing at the time of the commencement of the action, and in no way tending to set forth the
4344 conspiracy set forth in the pleadings as framed, and in no way binding on these defendants.

Mr. Mayer: Same objection.

By Mr. Maloney—

XQ38. Do you speak German, Mr. Heather? A. No, sir, I do not.

XQ39. Did the carpenters tell you what the ma-

terial was that they said was non-union? A. Well, the trim.

XQ40. Did they refer to the doors? A. No, they did not refer to anything in particular, they just said the trim was non-union trim.

XQ41. Had they been working at all on any of the trim? A. Yes, sir, they had worked all that day of the 13th.

XQ42. The real fact was, that the only trouble was about the doors? A. So we understand, but they did not mention any.

XQ43. You understood it all right? A. I did.

XQ44. And they never had been working on the doors at all? A. The doors were not on the job.

XQ45. And there was no other question about this trim that was there, it was union trim? A. It was union trim.

XQ46. And they went back to work on the trim? A. They did not.

XQ47. The carpenters did not go back to work on Schwartzler's job eventually? A. Oh, yes, in the end they did.

XQ48. How long after this conversation you had, was it? A. That they went back to work.

XQ49. Yes. A. Three or four weeks.

XQ50. Oh, it was not as long as that? A. Oh, yes, it was.

XQ51. It was a week or ten days? It was more than that. You will find it is three weeks at the least.

XQ52. You knew that that was just part of a scheme or device to try to get somebody into contempt, didn't you? A. I did not.

XQ53. Didn't you know that there was a plan to try to bait some of these men into committing

an alleged contempt of an order of the court granting an injunction? A. No, sir.

XQ54. You have heard the injunction talked about? A. Yes.

XQ55. And you heard Mr. Schwartzler threaten to make use of that injunction? A. I did not.

XQ56. What did he say about it, that you heard? A. Well, I don't know, I can't recall now. I cannot recall what was said.

XQ57. Don't you remember his telling Anderson he would have Anderson put in jail if he did
4349 not—— A. I never heard him talk to Anderson.

XQ58. Talking to anybody over the 'phone pretending to be a union man? A. No, sir.

XQ59. Did you hear him talking to anyone who was a representative of the union? A. I did not.

XQ60. You did hear him talking to these carpenters? A. I did.

XQ61. And they were mostly all Hebrews, were they not? A. Yes, sir.

XQ62. And they could not speak the English language, with few exceptions, one or two? A. Some of them could.

4350 XQ63. Now, Stern was the spokesman of most of them, wasn't he? A. Yes, sir.

XQ64. Do you mean to say that Mr. Schwartzler said, "Do you men all swear that this statement is true?" and that they all said, "Yes"? A. I do.

XQ65. And he said that to them in the English language? A. Well, he said it to them in the English language. They all understood what it was.

XQ66. They did? A. Yes, sir.

 4351

XQ66a. How do you know? A. Because Stern had interpreted it to them.

XQ67. How do you know? A. Why, because I know.

XQ68. Do you understand German or Hebrew? A. No, I do not.

XQ69. Then you don't know whether he did interpret it or not? A. That is what he said.

XQ70. You suspected he might have? A. That is what he said.

XQ71. You knew, didn't you, that the Hubbell Hardwood Door Company which had supplied 4352
these non-union doors, had agreed to furnish Mr. Schwartzler with union material? A. Yes, sir.

XQ72. Now, did you ever find out what the reason was that Mr. Schwartzler did not require the Hubbell Hardwood Door Company to fulfill its contract instead of attempting to punish some of the union men for contempt? A. No, I never found out any reason.

XQ73. Were you on any of the other jobs of Schwartzler? A. No, I was only on that one, that is, where there was any trim, you know.

Subscribed and sworn to before me) 4353
this day of , 1912)

Adjourned to Monday, March 18, 1912, 2 P. M.

4354 Peter J. Groll, for Complainants—Direct.

PAINE vs. NEAL.

PRESENT:

THE COMMISSIONER,
MR. MERRITT,
MR. BEATTIE,
MR. MAYER,
MR. WHITTAKER.

Hearing at 27 William Street, April 8, 1912, 2 P. M.

4355

PETER JOSEPH GROLL, a witness called on behalf of complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? A. Peter Joseph Groll.

Q2. And you are connected with the P. J. Groll Construction Company? A. Yes.

Q3. In what capacity? A. President and Treasurer.

4356 Q4. How long have you been so connected? A. Ever since the inception of it, since it has been chartered.

Q5. That is several years ago? A. A trifle over two years ago, yes.

Q6. That company is engaged in building operations? A. Building operations.

Q7. Are its activities largely in the Borough of Manhattan? A. Manhattan.

Q8. Now some time in the summer of 1910, you were engaged in the construction of a building on

East 53rd Street between 3rd and Lexington Avenue, were you not? A. Yes.

Q9. What is the exact address? A. 143-5-7 East 53rd Street.

Q10. That is on the north side of the street? A. That is on the north side of the street.

Q11. Just what was the relation of your company to that building? Were you general contractor? A. General contractor; supervised it entirely.

Q12. Can you give me approximately the date when this building operation was going on? A. It 4358
started some time in May, 1910, and we finished it up some time in February, 1911.

Q13. With whom did you place the contract for the trim and woodwork in the building? A. With George Hagemeyer.

Q14. When was that contract made, approximately? A. Do you want the exact date?

Q15. I don't think that is necessary. A. Approximately, about August, 1910. Who in turn assigned that contract to a man named William Klein.

Q16. That is, Hagemeyer assigned that contract 4359
to William Klein? A. Yes.

Q17. What was the contract for? A. Furnishing all the hardwood trim, the entire trim throughout the buildings.

Q18. That included doors, sash? A. Doors, sash, mouldings—all trim.

Q19. When was the trim delivered on the building? A. Do you want the exact date?

Q20. No, that is not necessary. Was it several months after that? A. If I had my books I could tell you the exact date. Several months thereafter when it was delivered.

4360

Q21. Did you have any talk with any of the officers of the Carpenters' Union concerning it? A. I did.

Q22. Before the delivery? A. Before the delivery.

Q23. With whom did you talk? A. With Larry Storey.

Q24. Is that Lawrence Storey? A. Lawrence Storey. William Simpson, and the entire council of the carpenters' organization.

Q25. That was all before the delivery? A. All

4361 before the delivery.

Q26. Now, whom did you see first? A. Storey.

Q27. Was that at the building? A. That was at the building.

Q28. Tell me what was said by Mr. Storey?

Mr. Beattie: Objected to, incompetent, irrelevant and immaterial.

A. He wished to know whether the trim was going to be union trim or not. I informed him that was what my contract called for. He stated that he was under the impression that it would not be union trim, and if such were the case he would

4362 have to object to the same being placed and put in the building, which would involve me in a strike, or something of that character; and I told him that my contracts called for union trim, in fact, my entire building operation throughout called for union material, union trim and union conditions, with every sub-contractor I employed—being the general contractor thereof—and he desired to meet the party who had this contract, and I made an appointment whereby he met Mr. Klein and

Mr. Hagemeyer. He in turn then had Mr. Simpson come to see me. 4363

Q29. Were you present when he met Mr. Hagemeyer and Mr. Klein? A. I was. At my building. I don't know if he met them elsewhere between that time, but I was present when he met them at my building.

Q30. About when was this—a month after the contract was placed? A. Possibly three or four weeks previous to the delivery of the trim.

Q31. Well, then, Mr. Simpson came to see you? A. Mr. Simpson came to see me. Also inquired in regard to the same. And I gave him the same information, and they did not want to see me get into trouble, the way they informed me, but they said they had some agreement with the boss carpenters whereby they could not handle anything but union trim, and if I were to take in and handle trim which came in there, and which was their impression would be non-union trim, they would be forced to call a strike in order to conserve their interests with the agreement which they held with the boss carpenters' organization. 4364

Q32. Now, whom did you next see concerning this matter? A. Well, I saw Mr. Hagemeyer and Mr. Klein continually in regard to it, who kept telling me right along that the trim was union trim, and within a week or ten days previous to the delivery thereof I was under that impression, when Hagemeyer and Klein thereupon informed me that the trim was not union trim; it seems that in the mix-up of the assignment of contract from Hagemeyer to Klein that Hagemeyer had omitted the union clause with Klein, and Klein in turn, when he had sublet this contract to whomsoever it 4365

4366 was, they tried to put it over on me, as you might term it; I had accepted Klein as the assignee of this contract and I was facing a law-suit in not accepting the trim, or I was facing a strike if I did accept it. So I tried to adjust the matters and went up and saw the District Council of Carpenters. I got up there on Saturday night and was present (that is up on 59th Street) and placed the matter before the gentlemen there and explained my case, told them that I was not responsible for the appearance of non-union trim, 4367 and they told me they were very sorry, but they had an agreement with the boss carpenters' organization which compelled them to use nothing but union trim, to handle it, and would not permit their men to use anything but that. Do you want me to tell you what occurred there?

Q33. Yes. A. They told me that if I used and put up this trim——

Mr. Mayer: I object to "they"—identify the party.

Q34. Who was present at that meeting? A. Eight or nine men.

4368 Q35. Can you name some of them? A. If I heard the names I could tell them in a minute.

Q36. Was Mr. Cook there? A. I would not swear to it.

Q37. Was Mr. Storey there? A. Mr. Storey was.

Q38. Was Mr. Simpson there? A. Mr. Simpson was.

Q39. Was Mr. Rice there? A. I would not swear to it.

Q40. Was Mr. Walsh there? A. I could not say positively. I don't know the names of all of the gentlemen who were there and consequently I could not tell.

Q41. You started to give the conversation of some of these men. Do you remember the men who said each thing that you were telling about? A. There were some other names there that I could recall if I knew the names of all that were on the Council at that time.

Q42. As I understand it, this conversation was in the presence of all? A. It was in the presence 4370
of all. It was for the purpose of trying to adjust the matter, trying to adjudicate it.

Q43. Part of a general discussion? A. Part of a general discussion.

Q44. And within the hearing of all? A. Within the hearing of all.

Q45. Now, if you can, give the name of each man who talked and what he said. A. That would be a pretty difficult thing to do.

Q46. Well, then, give me as best you can what was said there at the meeting?

Mr. Beattie: Same objection. 4371
Mr. Mayer: Same objection.

A. They informed me that if I put up this trim, they would be compelled to call a strike. I told them that I was going to put up the trim whether they would call a strike or whether they would not. They also informed me that they would be willing to assist me in placing this contract elsewhere and having the trim delivered to me within a week or ten days in order not to delay me in my operations, being that I had informed them

that I could not possibly get the trim in time to meet with the requirements of furthering the deal. I told them that I would be willing to accept and place the contract elsewhere if they would go on record and protect me against any law-suit which might involve me with Klein or Hagemeyer in my not accepting their trim. They told me that they could not bind themselves and would not bind themselves to do that. I informed them that if they were not willing to protect me in that respect, I could not do anything but accept the al-
4373 ternative of putting the trim up as it was and taking a chance of putting it up.

Q47. That was the substance of the conference? A. That was the substance of the conference.

Mr. Mayer: I move to strike out all the testimony of this witness with respect to what happened at the 59th Street conference with the Council, incompetent, irrelevant and immaterial, not properly proved, hearsay evidence, no identification of the parties.

Mr. Beattie: Same motion.

Q48. Well, now, did you have any other con-
4374 versation before the trim was delivered, with any of these representatives of the union? A. Of any other union outside of the Carpenters' Union?

Q49. No; just this particular organization. A. I only had the conversation with Storey and Simpson.

Q50. But that you have already testified to? A. That I have already told you about.

Q51. You had no other after this meeting with the Council before the delivery of the trim? A. No

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Q52. When the trim was delivered, did you have any talk with anyone concerning it? A. When the trim was delivered on the Monday morning following the delivery, which happened on a Saturday, Mr. Storey came in and struck his men that he had on the job.

Q53. Did the carpenters quit work? A. Whatever union carpenters there were, yes.

Q54. They were the only trade that quit at that time? A. At that day, yes.

Q55. Did you have any talk with Mr. Storey then? A. Not that day; the following day.

4376

Q56. On the following day, did the carpenters come back to work? A. Not the union carpenters; non-union carpenters did.

Q57. How many union carpenters were there, approximately? A. On that first day?

Q58. Yes. A. Six or eight, I am not sure.

Q59. How many non-union carpenters did you have? A. I did not have any that day. The trouble was, that the carpenters understood that this trim was non-union and they did not want to go to work and take a chance of being called over the coals for it.

Q60. Then all the carpenters quit on that first day? A. All of the carpenters—they were all union carpenters—quit on the first day.

4377

Q61. Now, the next day you saw Mr. Storey? A. Yes.

Q62. Did any carpenters come to work the next day? A. Not union. We got some non-union carpenters.

Q63. On the following day? A. Yes.

Q64. How many? A. Offhand, I could not tell you; I would have to look over my books and see.

Q65. And then you saw Mr. Storey, and what did he say? A. I told him I was only too willing to employ nothing but union carpenters to put up the work; did not wish to do it with non-union men, but wished to employ only union men, and he said as much as he would like to help me, it would be an abrogation of a contract they had and that they could not very well do anything and he would be compelled to strike it, and incidentally also asking other trades to assist him, if possible, in striking the job.

4379 Mr. Beattie: Objected to, incompetent, irrelevant and immaterial, and not the proper way to prove it.

Mr. Mayer: Same objection.

Q66. Did he say anything as to the way he would secure the assistance of the other trades?

Mr. Beattie: Same objection.

A. He did.

Q67. What did he say?

4380 Mr. Mayer: Objected to, incompetent, irrelevant and immaterial, not properly brought out, not within the issues; hearsay.

Mr. Beattie: Same objection.

A. Said he would take it before the Building Trades Council and inform them of the fact that I had non-union men there and ask the assistance of the other trades in consequence thereof.

Q68. What other trades did you have working on the building at this time? A. Iron workers, plumbers, steamfitters, tile layers, concrete and

 4381

cement workers, painters, masons, marble workers——

Q69. Any elevator men? A. Elevator men, elevator constructors——

Q70. Any tile people? A. I believe I mentioned tile layers. And the helpers of those various trades with them.

Q71. Well, now, you have got down to the day after the union carpenters quit. Now tell us what happened after that time? A. Having been informed of the fact that the matter would be brought before the Building Trades Council, I 4382
thought I would take the bull by the horns and go to the Building Trades Council myself. I went around to them and had the privilege of the floor granted and had my contracts with me and expressed to the entire Council the situation that had confronted me and was confronting me with regard to the question of the carpenters; showed them where I was the innocent party and asked them to give me some consideration in reference to the matter.

Mr. Mayer: I move to strike out as incompetent, irrelevant, immaterial, hearsay. 4383

Mr. Beattie: Some motion.

A. (cont.) They listened to me very attentively and courteously and when I got through, the president of the Council asked if any of the members of the floor who were present desired to ask me any questions or gain any information which I had not given them, and there were no questions asked and required at the time. After I had left the Council Room, after I had gotten

through and went outside, then several of them asked me minor questions, but not while I was in the Council Room.

Q72. Were any representatives of the carpenters there? A. There were.

Q73. Anyone whom you have already named? Do you know the names of any of the carpenters who were there? A. (After examining list of defendants.) Crimmins.

Q74. Crimmins was there? A. Crimmins.

Q75. Was there any vote taken when you were
4385 present? A. No.

Q76. Well, what happened on the job after that? No strike of the other trades took place on the building until some time after that? A. Well, for a week or ten days thereafter there was no strike of the other trades. Then a committee meeting was held of the trades for the purpose of ascertaining whether the conditions existed as claimed by the carpenters.

Mr. Beattie: I ask that that be stricken out.

Q77. Do you know that yourself? A. Positively.

4386 Q78. How do you know? A. I was there.

Q79. Where did this committee meet? A. On the building.

Q80. What was it a committee of? A. Of delegates representing the trades that were working at that particular time.

Q81. And what was said? A. Among that committee?

Q82. Yes. A. That I don't know.

Q83. You were present there? A. I was present when the committee met for the purpose of

ascertaining whether the claims and contentions of the carpenters were right or not.

Mr. Beattie: I move to strike that out.

A. (cont.) I was informed of that by the different delegates; the carpenters told me that.

Q84. Which one? A. Larry Storey.

Q85. He told you that was the purpose of that meeting? A. Yes.

Q86. Now go on. A. And this committee met and the trades that happened to be working on the day of this committee meeting, those trades were informed that that night at five o'clock they were to quit work and not to return to work the following day. 4388

Mr. Beattie: I move to strike that out, not properly proven.

Q87. How do you know that? A. From the men that were working there.

Q88. You mean they told you so? A. They told me so, yes.

Mr. Mayer: I move to strike it out as hearsay. 4389

A. (cont.) And several of the delegates told me so.

Q89. Can you name any of the delegates who told you so? A. Gus Keene.

Q90. Whom did he represent? A. The marble workers; he is one of them.

Q91. Can you recall whether or not any of the carpenters' delegates told you so? A. No; they would not tell me.

4390 Peter J. Groll, for Complainants—Direct.

Mr. Mayer: I move to strike out all the testimony of this witness that was referred to as at this building, as incompetent, irrelevant and immaterial, and not within the issues, not properly proven, and hearsay.

Mr. Beattie: Same objection.

Q92. Do you recall anyone else who told you? A. Thomas Whelan.

Q93. And whom did he represent? A. The steamfitters.

4391 Q94. And there were steamfitters working on your building? A. Yes.

Q95. Did the steamfitters quit work, as a matter of fact? A. At that time?

Q96. At any time, in connection with this matter? A. They did, about two weeks after that, through the steamfitters' helper striking his men on the job through James Nugent, the delegate.

Q97. Now, what happened that night at five o'clock? A. Nothing more or less than the men went home from the job.

Q98. Can you give the names of any of the men who told you why they were going to quit? A.

4392 The working men?

Q99. Yes. A. I know them all as Jack or Tom or Jim, but I don't know their last names.

Q100. Well, now, what was the situation next morning? You came to the job, I assume, as usual? A. A little earlier .

Q101. Well, what was the situation? A. All the trades that had been working the day before, the men were there ready to go to work, but were waiting for some trade to take the initiative in going into the work.

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Mr. Beattie: I ask that that be stricken out.

Q102. When you arrived there, all of the men who had been working there in the different trades were waiting around the building? A. Yes.

Q103. What was the usual hour of going to work? A. Eight o'clock.

Q104. And did they go to work at eight o'clock? A. They did.

Q105. All of them? A. All of them.

Q106. Did you hear any conversation among them when you arrived? A. I did.

4394

Q107. As to whether or not they were going to work? A. I did.

Q108. And what did you hear?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial, hearsay, not within the issues.

A. That if any of the other trades went to work that they would go to work.

Mr. Beattie: Same objection.

Q109. Did all the trades stay at work during that day? A. They did.

4395

Q110. What happened the next day? A. They continued to work that way until the following meeting of the Building Trades Council, when another committee meeting was called for the same purpose, of trying to get the other trades to strike in sympathy.

Mr. Mayer: I move to strike out the answer.

Mr. Merritt: I agree that it be stricken out.

Mr. Mayer: And the witness should be warned not to give conclusions.

4396 Peter J. Groll, for Complainants—Direct.

Mr. Merritt: I do caution the witness that what we want is just a statement of facts as to what took place.

Q111. Now, Mr. Groll, how long did the men continue to work there without any of them quitting after this time? A. Do I understand you, how long did all of the trades continue to work after this original strike was declared?

Q112. After this time when you stated you went to the building and found them all hanging around,
4397 and they all went to work, and they went to work continuously for a number of days after that, at least, as I understand it? A. Yes.

Q113. How long, approximately, did they continue to work without any interruption? A. Five to six working days.

Q114. And what happened after that time on the building, that you know of? A. The same procedure took place as previously.

Mr. Beattie: I ask that that be stricken out.

Q115. But a meeting took place of the delegates? A. A meeting took place of the delegates.

Q116. Did you see the meeting take place? A.
4398 I did.

Q117. Were they some of the same delegates as had met before? A. Some of the same.

Q118. Were any of the carpenters' representatives there? A. Yes.

Q119. Who? A. Storey, among them.

Q120. Were you present at their meeting? A. I was not present to hear what they said, but I was within striking distance, within half a dozen paces.

Q121. You could see them grouped together?

 4399

A. Oh, yes; in fact, I spoke to all of them at the time, we were all very friendly .

Q122. Did any of them tell you at this time why this second meeting took place? A. Yes.

Q123. Who told you the reason for the second meeting? A. Mr. Storey told me about it.

Q124. And what did Mr. Storey say was the object of this second meeting?

Mr. Mayer: Objected to, incompetent, irrelevant and immaterial.

A. Mr. Keene told me, and the mechanic who had charge of the steamfitting told me, that he had been instructed by his delegate what to do. 4400

Q125. What is his name? A. He was the chief mechanic for the firm of Lawrence Tivy.

Q126. What did Mr. Storey tell you was the object of the meeting? A. For the purpose of striking the other trades and trying to compel me to rip out all the trim and put in other trim of union men.

Q127. What did Mr. Keene tell you? A. That the meeting was held for the purpose of trying to have the other trades go out in sympathy with them. 4401

Mr. Mayer: Same objection, and I move to strike out the answer on the same grounds.

Mr. Beattie: Same objection.

Q128. Did the men remain on working during the remainder of that day? A. During that day, yes.

Q129. Did the men come back to work the following day? A. They all came back to work but one trade.

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Q130. What trade was that? A. The elevator constructors.

Q131. Did the men who were doing this work of elevator construction appear on the job the following day? A. No.

Q132. They did not come to the job at all? A. They did not come to the job at all.

Q133. About how many of them were there? A. I don't believe there were over three or four of them. There may have been only three, I am not sure.

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Q134. Did any of the other men quit work after this time? A. That following day?

Q135. Yes, or subsequently? A. The painters stopped, and came back. The ironworkers stopped, but I believe that was through them not having material to work.

Q136. You mean, the stopping of the ironworkers had nothing to do with this? A. Nothing to do with this, but they stopped for a few days after that. The tile layers stopped and came back within a day or two.

Q137. Did any others, that you recall? A. I cannot recall any others; no.

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Q138. Did you have any other meetings with the Building Trades Council? A. In their Council Room? No.

Q139. Did you meet them elsewhere? A. Met them in a casual way outside, discussed the matters generally; I knew them all.

Q140. You ultimately completed the whole building, I take it? A. I did.

Q141. With this trim? A. I did.

Q142. Did you remit in full to Hagemeyer and Klein for the amount of the material? A. All but

a matter of $400 which they allowed me for the trouble which I had gone through, which I expected to go through at the time that I received the ultimatum from the Carpenters' Union when I put it up to Klein and Hagemeyer, the trouble that it placed me in, and the trouble I was facing, and they made an offer of an allowance of $400 on the contract. All but that $400 they were paid.

Cross-examination by Mr. Beattie—

XQ143. Was the building finished, in so far as 4406
the trim was concerned, by non-union carpenters? A. It was finished, in so far as the trim was concerned, by non-union carpenters, who were not recognized by the organization, by any organization, non-union men entirely.

XQ144. It was finished by non-union carpenters, then? A. Yes.

XQ145. And did these other trades that you have enumerated here work along on the building with the non-union carpenters to the finish? A. They did.

XQ146. Did you have any disputes with any of
these other trades in connection with the building? 4407
A. None except the painters.

XQ147. Was that dispute about the time you had the dispute with the carpenters? A. Well, the painters claimed there was one man working——

XQ148. I just asked you, was it about the same time that you had the trouble with the carpenters? A. Just about that time.

XQ149. Then, as you understand it, the Building Trades Council refused to permit these different trades to strike in sympathy with this

grievance of the carpenters? A. Why, I have stated before that the committees went on record as asking their men to strike and telling them to strike at that particular day the committees would meet and the following morning when they would come there for the purpose of seeing whether everyone had complied with that request. Some particular trade would go to work and some of the others would go in after them.

XQ150. Well, the result of that was, that they continued to keep on working along with the non-
4419 union carpenters to the end of the building? A. Yes.

XQ151. Don't you understand from that, that the Building Trades Council would not join in this grievance of the carpenters so as to call out these other trades? A. I don't know what the Building Trades Council did in their own particular meetings or in their own assemblages. I am only in a position to state what the committees that met there had done.

XQ152. Well, was there any one time that all of those trades were off the building? A. No.

XQ153. There were always some trades working
4420 on the building and your non-union carpenters were working right along, I suppose? A. All the time.

XQ154. Now, before this strike of these six or eight carpenters, you say that the men did not want to work when they found it was non-union material or likely to be trouble, didn't you? A. Yes.

XQ155. Did you get that information from some of these six or eight union carpenters employed there at the time? A. Got it from the man who

had the lumping of the work to put up the trim.

XQ156. Who was that? A. Fleischer.

XQ157. Was the work lumped, aside from the trim? A. Yes.

XQ158. Let us see about this. Who gave out the lumping contract? A. I did.

XQ159. In connection with the trim? A. Separately from the trim.

XQ160. To whom did you give that contract? A. Gustav Fleischer.

XQ161. And the trim was separately given out to Hagemeyer? A. Yes. 4422

XQ162. Hagemeyer or his assignee, Klein, had nothing whatever to do with putting up the trim? A. Nothing whatever.

XQ163. All they had to do was to furnish it? A. That is all.

XQ164. And your agreement, have you got that agreement you made with Hagemeyer, with you? A. Not with me, no; I can get it.

XQ165. It had a clause in requiring the union trim to be furnished? A. Yes.

XQ166. Is the assignment just written on the contract, the assignment to Klein, is it just written on your contract with Hagemeyer, or was that 4423 a separate agreement? A. I believe that was a separate agreement.

XQ167. Can you get us that agreement, too? A. I can, yes.

XQ168. Well, any trouble that you had on that building was the result of Hagemeyer not keeping his agreement with you, wasn't it? A. That's the sum and substance of it, through not having the union trim.

XQ169. So they really did not give you what

4414 you had contracted to get? A. No, that is about the size of it. He is the man that really did the dirty work.

XQ170. Hagemeyer or Klein? A. Hagemeyer. Klein was only a tool in the hands of Hagemeyer.

XQ171. Did they threaten to bring an action against you if you did not take the trim? A. They certainly did.

XQ172. Who? A. Both of them; Klein, through Hagemeyer.

XQ173. You knew they could not succeed, didn't
4415 you? A. No, they could not succeed; but while this action was pending, my building loan would cease to operate through their placing a lien on the building, and if they put a lien of $5,150 on my property, I had to bond it or do something to release that lien, and then face the probability of a lawsuit which I might win or might not win, and while I am trying to win this lawsuit, my building loan ceases, and I face a chance of going broke entirely. It was better to lose what I did lose and face the issue and put up non-union trim, than face the issue of a lawsuit and losing it.

XQ174. You figured out a strike would be
4416 cheaper than a lawsuit under the circumstances? A. Yes, and I explained it to all the gentlemen concerned; they appreciated the position I was in, but they had to protect themselves as well as I had to protect myself.

XQ175. And you appreciated the position they were in, too? A. I certainly appreciated the position they were in. It was a delicate matter for both of us.

XQ176. You knew they were under agreement with the Master Carpenters' Association to put up only union trim? A. I knew that.

XQ177. Are you a member of the Master Carpenters? A. No, sir.

XQ178. Were you at that time? A. No, sir.

XQ179. Or course, you know Storey is dead? A. Yes.

XQ180. The gentleman you have been referring to? A. Yes.

XQ181. Did you tell these carpenters, the six or eight union carpenters, that this was union trim or hear either Hagemeyer or Klein tell them so at the beginning, when you hired them? A. I did not tell them. Klein had nothing to do with the 4418
hiring of them. Fleischer had.

XQ182. Did Fleischer tell them? A. By hearsay from me, yes.

XQ183. That it was union trim? A. Yes.

XQ184. And that is how he got these six or eight union carpenters? A. Yes.

XQ185. Do you know whether he told him that it was subsequently discovered it was non-union trim, the day they quit, or around that time—that he had ascertained since that it was non-union trim? A. No. I believe that Storey told them that. He did not tell them. He may have told them after Storey told them. 4419

XQ186. Did you hear Storey tell these six or eight men the day they quit that it was non-union trim? A. I did not hear it.

XQ187. Did you have any difficulty about getting non-union carpenters to complete the job? A. I had considerable trouble.

XQ188. How many did you get? A. Oh, I had as many as twenty-five working there at one time.

XQ189. How do you mean, you had trouble? Weren't there plenty of non-union carpenters to

4420 be got? A. There are any number of non-union carpenters to be got, but as regards their ability to handle the tools and deliver the work was another question. They are very poor mechanics.

XQ190. Were they all poor mechanics? A. The great majority.

XQ191. How did you get these twenty-five men or so—advertising for them? A. Advertising for them. One would know another and he would send the other along.

XQ192. Did you advertise more than once? A.

4421 Yes.

XQ193. Well, did each advertisement bring all the carpenters you wanted? A. No.

XQ194. Do you know how many of these different trades that you have mentioned are members of what is known as the Building Trades Council? A. To the best of my belief, they all are.

XQ195. But you don't know, do you? A. I am not a member.

XQ196. Do you know there are a lot of these trades that are not affiliated with the Building Trades Council? A. Yes, I know that.

XQ197. But you believe that those you men-

4422 tioned are? A. Yes.

XQ198. Did this dispute you had with the painters go to the Building Trades Council, too? A. That I don't know; I don't believe it did.

XQ199. You don't know whether it did or not? A. I don't know.

XQ200. Who was the delegate of the painters at that time? A. There were two or three, but one in particular that I had charge of that I don't recall his name; if I heard it I could tell in a minute.

XQ201. Didn't you have some dispute with the elevator constructors? A. No.

XQ202. You said they all came back at a certain time except the elevator constructors; was there any reason for their not coming back? A. They came back within two or three days.

XQ203. Are you a member of the American Anti-Boycott Association, Mr. Groll? A. No, I am not.

XQ204. Have you been solicited to become a member? A. I have not.

XQ205. Did you have any non-union men in any of the other trades? A. Knowingly, there were none working in any of the other trades. 4424

XQ206. You did not know of any? A. No, except——

XQ207. This non-union painter? A. Except in that one instance, where the painters claimed there was one man working not a union man, and that was adjusted to their satisfaction.

XQ208. Did that $400 which Klein and Hagemeyer allowed you on the contract pay you for your trouble? A. Twenty times that would not pay me for the trouble that I had through it.

XQ209. Have you come to the conclusion that the strike was dearer than a lawsuit, now? A. No, I still think it was cheaper, unless future developments will prove that I get something more in consequence of it. 4425

XQ210. What do you expect now? A. In case I have another job that they are liable to come after me on it.

XQ211. Are you going to put the union clause in hereafter? A. The same as I have always done in the past.

XQ212. Well, their complaint really was not against you, it was against this man that had not

kept your agreement with him, wasn't it? A. I was the one they were after for not having the union trim according to the conditions that they thought were right to put up the building with union men, and so forth. They had nothing directly to do with Hagemeyer or Klein. I was the man that had the doings with them, and consequently they had to come after me in order to possibly reach them.

XQ213. These men had no personal grievance against you? A. None whatever. They were of
4427 the most friendly nature towards me personally through long years' friendship and business associations that I had had with them.

XQ214. You thought they were acting along what they considered to be their duty and you were acting on what you thought was your duty? A. Yes, that's just it, what I thought was my duty. I believe if it had been within their power, they would have tried to protect my interests; but I had to protect my own and fight the issue the way I did.

XQ215. Have you done any building since? A. No. It put a crimp into me financially that I
4428 haven't been able to do anything since.

Mr. Beattie: I move to strike out the answer "it put a crimp into me," etc.

Mr. Mayer: Same motion.

The Witness: I would very much like to have it stay in, gentlemen.

XQ216. These non-union carpenters worked for what wages a day? A. Union wages, everyone of them.

XQ217. Did you hire them? A. Fleischer hired them and I paid them through Fleischer.

XQ218. Well, there was no extra expense involved in this matter except the delay—how many days' delay—four or five days? A. The men could not work as fast.

XQ219. That is, the non-union carpenters? A. Non-union carpenters.

XQ220. There was no occasion for your paying them more than they were worth, was there? A. You had to pay them the scale to be adequate to what was right. I would not go on record as paying any less than union wages.

XQ221. There is no occasion for paying union wages to incompetent non-union men? A. They would work one day and be fired and a new man would take his place next day. When we found out how incompetent he was, we would be placed under the necessity of waiting another day or two or three and getting another in his place. Frequently I had only two or three working a day. I have had as many as twenty-five in a day and laid off ten or twelve of those the same day that they came to work.

XQ222. And is that what caused you this $400 or more loss? A. The delay which was caused through these men in being unable to perform their work and go ahead with it and not being competent mechanics, delayed other mechanics in consequence and these other trades not being able to finish their work in consequence of the delay caused by the inexperienced men, caused me to lose considerably more than the allowance of $400 that had been given to me.

4432

By Mr. Mayer—

XQ223. I understood you to say, Mr. Groll, that union men for the character of work you require to be done, were better than the ordinary non-union man you could get, is that so? A. Not the slightest doubt about that.

XQ224. And you wanted to employ union labor throughout your job? A. I did.

XQ225. And union carpenters? A. I did.

XQ226. And you had that in mind when you inserted in your contract with Hagemeyer about the union trim? A. I did.

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XQ227. You understood at that time that the union men would not work on non-union trim? A. I did.

XQ228. And you knew there would be trouble among the carpenters if they were asked to work on non-union trim? A. I did.

XQ229. And you knew there would be trouble among the carpenters if they were asked to work on non-union trim? A. I did.

XQ230. And in order to get the best work and the best men you could get, you inserted that in your contract with Hagemeyer? A. Positively.

4434

XQ231. And Hagemeyer turned a trick on you, as you might term it, and in getting you to consent to the assignment of the contract, omitted the union provision in that assignment? A. That is right.

XQ232. Correct me if I am wrong. So that when you got the trim on the job you first learned that it was non-union trim? A. Previous to getting the trim on the job I learned it.

XQ233. And that the trick had been turned on you by Hagemeyer? A. Yes.

XQ234. And then the question was, whether you should go on and put up the trim with non-union men, or throw the trim out and stand a lawsuit, and get union trim which the union men would have? A. I did.

XQ235. And you used your best business judgment? A. I did.

XQ236. And you thought it would be cheaper for you to stand a strike of the carpenters than to throw out Hagemeyer's or Klein's stuff and get new union stuff on which the union men would work, is that right? A. Yes, sir. I thought that 4436
would be the best, considering that financially I was not strong enough to do the other. Had I been financially strong enough to do the other, I would not have accepted the non-union trim, and would have put in the union trim and taken a chance on the lawsuit.

XQ237. In other words, your sympathies were with the union men on that subject? A. They were until the time they came after me.

XQ238. Up to the time at which you decided which you were going to do, your sympathies were with the union men? A. Yes.

XQ239. The carpenters went out at some time 4437
or other? A. Yes.

XQ240. And then, as I understand it, subsequently the elevator constructors went out for two or three days? A. On a strike?

XQ241. On a strike. A. I can't say that.

XQ242. You don't even say they went on strike? A. I only know they did not return to work after the conference.

XQ243. For three days? A. Yes.

XQ244. Then they came back and the job was

finished with the non-union men working along with the union representatives of all trades? A. Yes.

XQ245. And the job was finished? A. Yes.

By Mr. Merritt—

Q. 246. Did you hear Fleischer say anything to the union men which he hired? A. The first men he hired?

Q247. Yes. Did you hear him talk to them? A. No, I can't say that I heard him say anything
4439 to these men.

By Mr. Beattie—

XQ248. Do you know of your own knowledge whether any of this trim that there was this trouble about, was made by any of the complainants in this action—do you know of your own knowledge, whether any of this trim that was involved in this dispute was manufactured by any of the complainants in this action? You don't know who made the trim? A. The Bristol Door & Lumber Company made some of it.

4440 XQ249. How do you know? A. Because I sent them checks and gave them notes and paper in part payment of it from Worden & Hausbeck. Worden & Hausbeck did some of the work for——

XQ250. I understood you contracted it? A. I contracted with Hagemeyer, who assigned it to Klein, who in turn had an agreement or assignment or subcontract of some kind with Worden & Hausbeck, who in turn had it with the Bristol Door & Lumber Company and some other firm, I forget the name of it; I could tell it as soon as I

heard it; and it was through them that I had to deal. When any of the paper which matured on it became due, it was in that way I became aware of the fact who the real first man was that made the goods.

XQ251. And it was only when you came to pay for it that you learned who had made the goods, was it? A. No, I believe I learned all that previous to paying for it.

XQ252. How much of it was made by the Bristol concern, do you know? A. I could not tell you offhand without looking over my books. 4442

XQ253. Do you know how much of it was made by this other concern you speak of? A. Worden & Hausbeck are only middlemen, as you might term it, sort of agents for the different mills and various firms who dispose of trim and articles of that kind. They were at that time.

XQ254. Then this stuff may have come from a good many mills, so far as you know? A. No, it only came from one, to the best of my knowledge.

XQ255. You mean, it all came from the Bristol Door & Lumber Company? A. To the best of my knowledge, yes.

XQ256. And what is your knowledge based on? 4443
A. Letters and communications and bills payable, etc.

XQ257. Addressed to Klein? A. Or to Worden & Hausbeck, Bristol Door & Lumber Company, business transactions I had with them through Klein, Hausbeck and the Bristol.

XQ258. Did you know this at the time that these carpenters struck, where this stuff had come from? A. No, I did not.

XQ259. And of course you don't know of any-

4444 body who had informed the carpenters where it came from? A. Mr. Simpson told me that he was positive the trim was not union trim through the investigations which he had made. I confronted Hagemeyer and Klein with that accusation and knowledge which had been handed me by Simpson. They in turn then told me that the accusation was true, but they did not tell me at the time they admitted this accusation, where the material was coming from. That I only learned afterwards in the course of business transactions,
4445 where it came from.

XQ260. And you had no occasion to tell any of these carpenters where it came from, did you? A. Previous to the strike?

XQ261. Yes. A. Why, they asked me whether I knew where it came from, and I asked Klein and Hagemeyer, and I told the carpenters' delegates what Klein and Hagemeyer had told me, and it seems that Klein and Hagemeyer had lied to me about it, and I in turn carried the lie to the delegates.

XQ262. They told you it was union? A. And that it had come from a certain mill or factory
4446 down in some part of the south here—Pennsylvania I think it was, Readsville, I think it was they stated.

XQ263. They stated that they had bought it from this union concern, and Simpson in order to satisfy himself and not get me in trouble, nor his own men in trouble in handling stuff which was not union material, went down there on the recommendation and the advice of the council of carpenters to investigate whether that mill was a proper mill or not, and when he came back he

found that the mill was not as it should be, but even if it had been, as he found it, he would have organized it and made it a union mill for the purpose of getting this trim in and making it right, but he also found that the mill they claimed it came from was not delivering the goods as stated, and the consequence was, that when he came back and said that these people down there knew nothing about delivering this trim or knew anything about a contract, why, I faced an issue that made me a liar in their eyes, and I accused Klein and Hagemeyer then of it, and they then admitted that 4448 they had stated this for the purpose of fooling the delegates.

XQ264. Then these carpenters did not know that any of the material had been made by any of these complainants at the time they struck, in fact, their information was to the contrary? A. They knew that the trim was non-union trim at the time they struck, because I had informed the Council of Carpenters previous to the time of going to work, I had informed them that I was going to put up that non-union trim, and which was on the sidetracks of the railroad and ready to be delivered at my building. 4449

XQ265. But you thought it had come from a mill in Pennsylvania at that time? A. I had found out ten or twelve days previous to the stuff being delivered where it had come from. All this other conversation was previous to that, and when I found out the true status of the case, I informed the carpenters and gave them the true facts, not as Hagemeyer and Klein stated them, but as I knew them to be, and they took action in consequence, because they knew positively that it was

non-union trim, because I personally told them that.

XQ266. You feel sure that all of this stuff came from the Bristol Company, now? A. The great majority of it, the Bristol.

XQ267. But don't you know that they only make a limited line of trim? A. That may be true, but I know that is why I had to take care of it.

XQ268. Didn't you pay any other bills in connection with it? A. To anybody else?

XQ269. Yes, for any of this trim? A. I paid
4451 Klein some.

XQ270. That was really paying the Bristol Door Company, wasn't it? A. There were some things that were put in there that were not included in the contract, which were extras and which came from Klein, furnished from his mill, or wherever he got them, I don't know.

Subscribed and sworn to before me this day of , 1912

MORITZ ARNSTEIN, recalled:

4452

Direct Examination by Mr. Merritt—

Q122. Mr. Arnstein, I show you a letter dated December 19, 1910, which is Plaintiff's Exhibit 6 introduced in the depositions taken in Oshkosh, and I wll ask you if that is your letter? A. Yes, it is.

Q123. You wrote that letter to the Gould Manufacturing Company? A. I did.

Q124. Can you give me the amount of business you have done with the Gould Manufacturing

Company, and the amount of business you have done with the Paine Lumber Company in the last three or four years? A. I could give it as near correct as we could get it together. 4453

Q125. Is it approximately correct? A. Yes.

Q126. All right, give it to us.

Mr. Beattie: I object, incompetent, irrelevant, immaterial.

A. What period of time do you require? I have it from 1907.

Q127. Give it to me from that time. A. With the Paine Lumber Company, about $17,151 business. 4454

Q128. In what year? A. From 1907 to 1910.

Q129. You had better give it by years. A. In 1907 I bought from Paine Lumber Company $450 worth; in 1908, $5,772; in 1909, $10,455.89; in 1910, $473.76.

Q130. That is all from Paine Lumber Company? A. Yes.

Q131. Now give me the Gould Manufacturing Company. A. With Gould I did not deal before 1909.

Q132. Well, give it from 1909. A. In 1909, $2,219.60; in 1910, $12,029.50; in 1911 $6,937.99. 4455

Q133. How much of this business was in 1⅜ sash? A. From the Paine Lumber Company it was $10,000 and from Gould it was $12,000.

Q134. Was the balance 1¾ inch sash? A. Yes.

Q135. I think you already testified that you have not bought any 1¾ sash from either of these concerns since the time you executed the agreement; is that correct? A. That is correct.

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Cross-examination by Mr. Beattie:

XQ136. What did you do after 1911 from Paine—1912? A. I have not bought anything of them.

XQ137. And how about Gould, 1912? A. 1912 was a very slow year; we bought very little of Gould.

XQ138. There was no reason why you should not buy 1⅜ inch sash from these concerns? A. Not that I know of. I have purchased in 1912 from Gould 1⅜ sash.

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XQ139. Do you know how much you purchased? A. In 1912?

XQ140. Yes. A. Oh, about $2,000 worth.

XQ141. Your business with the Paine Company fell off in the year 1910 $10,000 I see by these figures? A. Yes.

XQ142. What was the reason for that? A. I just happened to buy my sash somewhere else. It increased with Gould. They gave me better service and I bought sash of them.

XQ143. That $10,000 business which you took from Paine in 1910 you turned over to Gould? A. Partially, yes.

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XQ144. It is just about $10,000, isn't it? A. Yes.

XQ145. And could you tell us what proportion, say, of that business of 1909 of Paine and your business with Gould of 1910 was sash of 1⅜ inch or less? A. The majority of it was 1⅜, the bigger part of it.

XQ146. Is there any reason for your not dealing with Paine or Gould now in connection with this greater part of your business? A. There is no particular reason for it.

XQ147. About what proportion of your $10,000 business of 1909 was 1⅜ or less? Could you give us the proportion? A. About 70 per cent.

XQ148. And that business you do not turn over now to either Gould or Paine? A. I do not.

XQ149. You do not deal with them? A. Oh, yes I do.

XQ150. With Paine? A. No, I don't deal with Paine.

XQ151. But there is nothing in connection with the union labor in this city that prevents you dealing with Paine for sash of 1⅜ or less? A. Nothing whatsoever. 4460

XQ152. What reason did you have for giving up Paine as a customer? A. I have stated that before.

XQ153. You stated it in connection with the year 1909. Did you mean the same reason? A. I had elegant service from Gould, shipments were very much better and quicker. It is a smaller concern and they care more for my business, and they shipped my goods whenever I wanted them, whereas Paine shipped them whenever they liked.

XQ154. Does Gould get all your 1⅜ business now? A. Oh, no, not all; none of them get it all. 4461

XQ155. You scatter that business now? A. Oh, sure, I always did.

XQ156. You are still doing your $2,000 business or so with Gould a year? A. More than that, I expect to do more than that with them this year, than $2,000.

XQ157. Now this agreement that you made with the Carpenters' Union, Plaintiffs' Exhibit 9, made on January 12, 1911, does not state the time

that the agreement is to run. Do you know as to whether that was for a year or more? A. I could not recollect; I don't remember.

XQ158. Well, the agreement itself, I will tell you that, does not state the time it was to run. Was there anything said in connection with how long it was to run? A. I don't recollect any time limit on it.

XQ159. Now under that so-called agreement, Plaintiffs' Exhibit 9, you agreed to furnish to the Joint District Council a list of all contracts
4463 which you would make for sash over 1⅜ inch in thickness, stating from what manufacturer you were going to get such sash. Have you ever exhibited any of these lists to the Joint District Council? A. No.

XQ160. You have bought sash of more than 1¾ since January 12, 1912? A. Oh, yes.

XQ161. And you have never been called upon to pay that $2,500 in liquidated damages? A. No, sir. I have never been asked where I get my sash.

XQ162. Never been asked where you got your trim. Well, you had given up your large business with the Paine Lumber Company long be-
4464 fore you consulted the carpenters about making this agreement, Plaintiffs' Exhibit 9, hadn't you? A. Oh, yes.

XQ163. That is, your large business with the Paine Lumber Company had ended with the year 1909 and the agreement with the carpenters was dated January 12, 1911, as I understand it? A. That is correct, yes.

XQ164. Have you any difficulty about buying all the union sash that you desire from union mills? Are there plenty of union mills to make union sash? A. Oh, yes.

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By Mr. Mayer—

XQ165. You testified, Mr. Arnstein, when you were down here last (page 313) in answer to the following question of Mr. Merritt: "Q. I will ask you, Mr. Arnstein, to state the circumstances which led you to sign this agreement, Exhibit 9," and you replied as follows, "The carpenters would not handle the 1¾ sash unless they were made in union shops." You recall giving that answer? A. Yes.

XQ166. Was that the first time that it had come to your notice that the union carpenters would only work on union material? Was that the first time that that had come to your attention? A. Yes.

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XQ167. On that job? A. What job? You are alluding to one particular job?

XQ168. The 113th Street job. A. That is right.

XQ169. That is the first time you knew of this rule of the carpenters that they would not work or were not permitted to work on non-union material? A. Yes.

XQ170. When was that 113th Street job, about January, 1911? A. Yes. It was previous to January.

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XQ171. Now when you first learned of this in January, 1911, you thought you would make some inquiries concerning it? A. Yes.

XQ172. And would go to people in whose word you had confidence? A. Yes.

XQ173. And who were friendly to you? A. Yes.

XQ174. And on whose advice and business judgment you could rely? A. Yes.

XQ175. When that occurred to you you thought of two or three people? A. Yes.

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XQ176. And among them was Mr. O'Neill? A. Yes.

XQ177. You had known him quite a number of years? A. Certainly.

XQ178. And you considered him a friend of yours? A. Yes.

XQ179. And you still do? A. Yes.

XQ180. And any advice he gave you on any matter which he gave you, you thought would be friendly advice, given from the best knowledge he had on the subject? A. Certainly considered

4469 it so.

XQ181. And with your best interests at heart? A. Yes.

XQ182. And you went to him feeling this way? A. Yes.

XQ183. And you poured out your tale to him? A. I did.

XQ184. Told him the situation which confronted you? A. Yes.

XQ185. And then was it that you talked it over with him? A. I did.

XQ186. And did you ask him whether he could introduce you to, or whether he knew any of the

4470 delegates of the Carpenters' Union, or people in official capacity around there? A. I did not ask him that particular question.

XQ187. Did oyu ask him whether he would introduce you? A. I did not ask him that, either.

XQ188. How did this matter come about? A. I asked him what he thought about it.

XQ189. What advice did he give you as a friend? A. He said he would try and help me out as much as he could. He could not see his way clear at that time to help me any at all, but

he said that he would think over this matter and let me know at a future date.

XQ190. What he could do for you? A. Yes.

XQ191. Did he let you know at some future date? A. He did.

XQ192. What did he say to you then? A. He told me the best thing would be to go right down to see the head man in the union and come out, talk this matter over with him and see what we can do to save our future business.

XQ193. By "we" you mean yourself, Arnstein? A. Yes. 4472

XQ194. Did you ask him to make any appointment at that time? A. I did.

XQ195. Did he make a subsequent appointment with you? A. He took a few days.

XQ196. But did he arrange an appointment? A. He did.

XQ197. To meet at his own office? A. He did.

XQ198. And you met Mr. Cook at O'Neill's office? A. Yes.

XQ199. Dd he introduce you to Mr. Cook. A. He did.

XQ200. And then did he leave you alone to discuss your matters? A. He went in and out. 4473

XQ201. Was he attending to his own business at that time? A. Also.

XQ202. He let you use his office for the purpose of talking this matter over with Mr. Cook, is that so? A. Exactly.

XQ203. And that is the last that Mr. O'Neill had anything to do with this matter at all, if he had anything to do with it? A. That is the last.

XQ204. Simpson introduced you to Mr. Cook? A. I particularly requested Mr. O'Neill to help

4474 me along and he knew Mr. Cook and I did not.

XQ205. And he introduced you? A. Yes.

XQ206. And it was a matter of friendly interest to you? A. He certainly helped me along at that time immensely, as far as I know.

XQ207. Now, any subsequent meetings you had with union representatives weren't had at Mr. O'Neill's office? A. No.

XQ208. And Mr. O'Neill was not present? A. No.

XQ209. That was at Mr. Edmunds' office? A.
4475 At my office and in Mr. Edmonds'.

XQ210. And during all these conferences, Mr. O'Neill took no part? A. He did not take any more part than just that one particular time that he introduced me to Mr. Cook, as far as I remember.

XQ211. And how long was this talk with Mr. Cook at Mr. O'Neill's office? A. Oh, it lasted about twenty minutes or so.

XQ212. And during that time Mr. O'Neill was in and out of the office attending to his business? A. Yes, that is right.

4476 Subscribed and sworn to before me }
this day of , 1912 }

It is agreed that the concern of W. D. Crooks & Sons was a Pennsylvania corporation at the time the suit was commenced.

Hearing adjourned to Thursday, April 11, 1912, 2 P. M.

vs.

Morris Weinberg, for Complainants—Direct. 4477

PAINE vs. NEAL.

Hearing April 11, 1912, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. BEATTIE.
MR. MALONEY.
MR. MAYER.
MR. WHITTAKER.

4478

MORRIS WEINBERG, a witness called on behalf of the complainants, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt:

Q1. You are engaged in business in Brooklyn, are you not, as a speculative builder? A. As a builder.

Q2. You are what is ordinarily called a speculative builder, are you not? A. Yes, sir.

Q3. How long have you been engaged in that business? A. Six or seven years. 4479

Q4. Conducted a considerable number of building operations? A. Yes, sir.

Q5. Well, now, this fall you were conducting some building operations, weren't you? A. Yes, sir; eight buildings.

Q6. What were they? A. Eight four-story buildings at Park Place, near Saratoga Avenue.

Q7. And were they four-story dwellings? A. Four-story double tenement, eight families to a house.

Q8. From who did you purchase the material?

4480 Morris Weinberg, for Complainants—Direct.

Mr. Mayer. Objected to, incompetent, irrelevant and immaterial; an occurrence after the joining of issue, in no way connected with the conspiracy alleged in the complaint.

Mr. Maloney: Not pleaded, not binding in any way on these defendants.

Q9. From whom did you purchase the wood materials for this job? A. From two different places, from Levine & Kronenberg and got the window frames and from Parshelsky Brothers,
4481 Inc., the other material.

Q10. What was the material you got from Parshelsky Brothers? A. Jambs, casings, base, doors, window sash, all the inside material interior material.

Q11. When did you make your agreement with Parshelsky Brothers for that material? A. I believe it was the 12th day of October 1911.

Q12. How do you happen to remember the date? A. Because not long ago I looked up the contract with Parshelsky, and I believe it is sure it must be the 12th day of October, signed.

Q13. Approximately, what was the value of the
4482 contract? A. The contract with Parshelsky Brothers was about $4,800.

Q14. How did you have any conversation at any time with one Henry Erickson? A. Well, yes, sir

Q15. When was that and where was it? A. Referring to a long time before when I started to build there when I had some delegates there, Henry Erickson and Mr. Wolfinger, and they asked me I should be careful to buy union trim. They asked me that time—it was about four or five months ago.

Morris Weinberg, for Complainants—Direct. 4483

Q16. That was before you had made the contract? A. I don't know, I believe the contract was made; it looks to me that the contract was made, they merely passed by and they asked me I should try to get union material; I used to deal with the Iroquois Door Company, 18 Broadway, and this time I was taking the contract together and I bought of Parshelsky.

Mr. Mayer: I move to strike out this answer and object to all the testimony on this line on the same ground as I objected to the previous question. 4484

Mr. Maloney: Same objection.

Q17. Was Wolfinger alone at that time? A. John Wolfinger was alone that time. Sometimes he was with Erickson and one time he came without Henry Erickson, all alone.

Q18. When was it you had a conversation with Erickson? A. That was with regard to purchasing material was wth Mr. Wolfinger.

Q19. You also had a conversation with Erickson? A. That was afterwards.

Q20. When was that? A. It was when the trim arrived, when I got in the trim to my job. 4485

Q21. What trim? A. The trim from Parshelshy Brothers.

Q22. And where did you see Mr. Erickson? A. The first time I believe my carpenter made an appointment near my house at Powell Street and Pitkin Avenue. That was my first recollection, that I met Mr. Erickson with Mr. Goldberg.

Q23. You talked with him then? A. Yes, sir; I talked with him. Goldberg used to be the local delegate of the vicinity where I lived, the Jewish

delegate representing the local right in the vicinity.

Q24. What did Mr. Erickson say to you at this time?

Mr. Maloney: Objected to, incompetent, irrelevant, immaterial, in no way binding on these defendants, hearsay.

A. Mr. Erickson just merely—it was the middle of the week and I found out or there was some rumor about it; I find out from the carpenter that
4487 it is not—he started up the work—he said, "It looks as if the matter would have to be straightened out in the local, there has been a grievance, you will have to appear there." I asked Mr. Erickson was this true and he tell me yes, it was true, my contract was non-union trim, and some other things. "You will have to come up before the local and on Friday night they will try to straighten out the matters."

Q25. Did he mention any of the names of the parties who made the trim? A. Well, he claimed that the trim comes from non-union shops, from the Paine Lumber Company. I argued with Mr.
4488 Erickson that Parshelsky was buying his trim from Miller, 5th Street, and that Mr. Miller owns a union mill, and I order some material come from Mr. Miller, and I showed it to Mr. Erickson, and he claimed possibly there was other things that some were coming from Miller, but that the doors were coming from Paine and that Paine was a non-union concern.

Mr. Maloney: Who said that?

Witness: Mr. Erickson. He just merely

told me that I am not right about all the trim. He said he knew that the doors are bought from the Paine Lumber Company.

Mr. Maloney: Erickson said that?

A. Yes, sir.

Mr. Maloney: That these doors were coming from the Paine Lumber Company?

Witness: He claimed that Parshelsky is buying his doors from the Paine Lumber Company. The doors were not there then yet.

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Q26. Now, what did you do about it? O. I went down there Friday and went to the local Friday night, with my boss carpenter.

Q27. You mean the headquarters? A. Yes, sir.

Q28. Was that at Atlantic Avenue? A. Yes, somewhere around Borough Hall, not far from there, in that section.

Q29. Whom did you see there? A. Waited about half or three-quarters of an hour downstairs, they called me upstairs and gave me a hearing upstairs; by the table I met Mr. Goldberg, Erickson, John Wolfinger and about two or three other gentlemen, maybe three, and they gave me an introduction to them and I don't remember the name because I met them only once. I stated my case before them and I told him all the story, that I absolutely, when I bought the trim of Parshelsky, I knew nothing about it, that Parshelsky run a union shop. I promised him next time I will buy my material from union mills and so on, and it seems they did not like my idea, because they warned me before. When Mr. Wolfinger came up to me the first time and talked to me about the

4491

trim I did not give him a right answer that time and therefore I was punished and they told me, "You cannot go on with this trim." He did not tell me in a minute. They sent me downstairs and gave some questions. I asked them, it cost me nearly $5,000 and "This argument is no good," he said, "You can dump it; you can make fire or do anything you want." Still in all he said "We will consider it. You go downstairs and we will let you know." I went downstairs about half an hour and then Mr. Erickson and Wolfinger came
4493 down and said they considered not to let me go on—they would not give me union men to the job, and so on.

Q30. Had any carpenters gone to work on the job? A. Well, the carpenters did not know anything about it. Saturday morning I had another appointment with Mr. Erickson. The next morning Mr. Goldberg tried to make peace, he did not like there should be a strike in my place because there are so many men walking around idle in his vicinity and that he wanted they should have work, and to try to argue with the delegates that they should have another appointment Saturday
4494 and then Mr. Erickson came up to me Saturday and asked me to wait another week. I did not like the idea to spend another week and I made up my mind to wait until Tuesday. Monday they had another meeting and Tuesday morning they came up to my place and they answer me that they have to call that the men can't work in my place. That decision. I believe there were only two men working there.

Q31. There only had been one or two men working there? A. Yes.

Morris Weinberg, for Complainants—Direct. 4495

Q32. Did these men stop? A. They surely stopped. I could not see who came up and stopped them, somebody was sent to the buildings; Mr. Erickson did not come in at that time.

Q33. They quit work, those men? A. The two men quit work, yes.

Q34. Were there others standing around waiting to go to work? A. Yes, sir.

Q35. How many? A. About thirteen or fourteen, more than a dozen men were standing outside.

Mr. Maloney: I move to strike out that somebody came around and that somebody told him to quit—it makes it appear that somebody did come there and tell the men to quit work. There is no evidence on it. 4496

Q36. You say there were about twelve men standing around the building ready to go to work? A. Yes, sir.

Q37. And they did not go to work? A. No.

Q38. Did any of them state to you why they would not go to work? A. Surely. They said they would be fined at the union, they cannot go ahead. 4497

Q39. Did any of them state to you whether or not they wanted to go to work? A. They stated to me they would go to work under ordinary circumstances, they would surely go to work, they were waiting for the job six or seven weeks, under ordinary circumstances they would go to work.

Mr. Maloney: If it was union trim they would go to work?

Witness: Yes, sir.

Q40. And what is it you say they stated about fines? A. Well, they claimed that when they go to work they have a chance to be fined, they can put a fine on them, they surely stated so.

Mr. Beattie: I ask that that be stricken out as incompetent, irrelevant, immaterial, hearsay and nobody specified.

Cross-examination by Mr. Beattie:

XQ41. Dd you have an agreement with Par-
4499 shelsky to furnish you with union trim, doors, etc? A. No, sir.

XQ42. You did? A. No, sir; it was not specified union trim.

XQ43. Wasn't that the understanding between you? A. No, there was no understanding.

XQ44. Didn't you want to carry on your building under union conditions? A. I was always bothered on account of union labor, that means I should have union labor on my job, and I strictly obey with that because I myself will only have union labor. Here is a case which never came up in my mind with the trim, that the trim which
4500 came from somewhere should be union.

XQ45. You assumed that it would be union trim? You thought it would be union? A. I never knew that the people are arguing this case about non-union or union trim coming in? I know they are very careful with the business—the trim which comes from somewhere else they did not look so much upon it only just lately, two or three years.

Morris Weinberg, for Complainants—Cross. 4501

By Mr. Maloney—

XQ46. You thought the trim was satisfactory to the men? A. Yes, sir.

XQ47. What did you do with the thing finally, did you put up the trim? A. Yes, sir.

XQ48. Did you put it up with union or non-union men? A. Non-union.

XQ49. Had you non-union men around waiting for a job? A. Yes, sir.

XQ50. No trouble about getting all the non-union men you wanted? A. No, at this time of the year it was not. At another time of the year there is trouble. This time of the year it was not. 4502

XQ51. There were plenty of them? A. At this time, yes, sir, but at any other time you cannot get them.

Mr. Beattie: I ask that that be stricken out.

XQ52. This time? A. Yes, we did get union men this time.

XQ53. Weren't you accused by these delegates of being the first man to start in using this non-union trim in Brooklyn? A. Accused by the men? No, never because many jobs have been done by Parshelsky the same week and the same day before me, therefore I gave him out the job, and I looked up, there was never trouble with Parshelsky's job before; he made a job in the next block to me. 4503

XQ54. Do you know whether Parshelsky bought union trim these other times? A. I knew Parshelsky from a long time, and I knew he used to be an agent from Bossert, and I knew Bossert was not a union shop.

XQ55. He was an agent for Bossert? A. He used to be.

XQ56. Hasn't he handled union trim at all, that you know of? A. Some parts of the trim he used to handle union trim, Millers, Levin & Kronenberg and some other shops, and they are union.

XQ57. Didn't you refuse to make an affidavit for Parshelsky in the new action he has brought here for injunction? A. Yes, sir, I refused.

XQ58. Do you know that they have got an affidavit signed by you in the papers in that case?
4505 A. Yes, sir, I knew that.

XQ59. How did they get it; how did that come about? Did you refuse to make it? A. I will be frank with you about it. I myself am absolutely not against labor unions and I would surely know that unions should exist and it would be a lot of good, too. Here in this case I thought the delegate had something not against me, because I was the first man, it was a matter with the delegate, not a matter with the ordinary people, the workingman, the delegates had it against me and I went and told out what it was in that time. After I found out that it would not do me any good to
4506 fight with them, and when I finished up my job and looked that if I want to be in the building business I will have to quit this fighting business. I did not feel like making affidavits more than anything else.

XQ60. Did you make an affidavit? A. I made an affidavit.

XQ61. Did you make an affidavit for Parshelsky? A. Not for Parshelsky. I made an affidavit right in my house, the lady with another gentleman was in my house.

XQ62. Who did you make it for, the American Anti-Boycott Association? A. I don't know, I am not a lawyer; every word of it was written before, there is no question about it. 4507

XQ63. Did you refuse to let them use your affidavit? A. Yes, sir, after I made it.

XQ64. You told them not to use it in that case? A. Yes, sir; I asked them a favor that I be not dragged to court. I could not refuse the court to give statements and therefore I would not like my affidavits to be used.

XQ65. Then if they are trying to use it in that case it is without your authority? A. Yes, sir; absolutely, yes. 4508

XQ66. Now you belong to some other labor organizations, don't you? A. Yes, sir.

XQ67. And you had some trouble in one of them the night before this conversation with Erickson? A. No, not the night before Erickson. Just lately, when I began to work with non-union labor. I did not have trouble. They put in a complaint against me why I am employing non-union labor.

XQ69. Where was this? A. This is the Labor Lyceum Association; we are trying to build up a temple for the laboring people. 4509

XQ70. Did they accuse you of employing non-union labor? A. Yes, sir.

XQ71. In what trades was this? A. The same, carpenters and painters, that is the only two trades.

XQ72. Those two trades? A. Yes, sir.

XQ73. They claimed you had employed non-union men? A. Non-union men.

XQ74. Well, are you a member of some labor

organizations? A. Not directly; I have never been organized with them; I never belonged to any trade; just simply sympathized with them. I belong to the Labor Lyceum Association, the workmen's union, the Labor Lyceum is a benefit society, nothing to do with labor.

XQ75. Ddn't you tell Parshelsky you would be fired out of this organization if you made any statements to him? A. In my organization, the Workman's Circle, there are about forty-five members, and where a man is employing scabs or
4511 is doing scab work he had no right to belong to them. Before we go in we have not to swear to it exactly, but we all promise.

XQ76. Is that what you told Parshelsky, that you would be thrown out of that organization if you did anything in his case? A. I don't want to be thrown out of them because I like their company.

XQ77. Is this what you told Parshelsky? A. Not exactly the same words. I told him that maybe I will have a trial there; would not be thrown out, because I sent them my defence, this organization.

4512 XQ78. That is, on the charge of employing non-union labor? A. Yes, sir.

XQ79. How did you come out of that? A. I don't know yet, it is pending.

XQ80. That is suspended? A. No.

XQ81. Who tried you, what organization? A. The Labor Lyceum Association.

XQ82. Is that what you referred to when you told Parsheisky that the night before "I had been on trial in a labor organization"? A. Yes, sir.

XQ83. That is what you meant? A. Yes, sir.

4513

XQ84. Do you belong to other organizations of labor? A. No.

XQ85. He uses the word "organization" would fire you? A. No, no, only this organization, the Workman's Circle, nobody made a complaint there against me.

XQ86. Weren't you afraid that the Workman's Circle would also fire you if you were putting up non-union material? A. I was not afraid of them exactly, because I am not deriving any benefits of them; I am not looking for their benefits, it is merely a sociable organization.

4514

XQ87. In those two organizations it is against their rules for you to put up non-union materials or employ non-union men, isn't it? A. Non-union material is not the question, I will not state that; employing non-union men.

XQ88. How about union conditions? A. We should work under union conditions, yes, sir.

XQ89. And don't they include union material? A. Well, it is a question, because the plumbers are working under union conditions and they don't use the union material, and the painters don't use union material.

4515

XQ90. Do you know about the material they use? A. Yes, I know. There's non-union lead coming from many places.

XQ91. How about the plumbers that work for you? A. They are union men; they don't work with union material.

XQ92. You know? A. Many things are not by union material made, they never kicked about it, never asked.

XQ93. There is a big difference between things a plumber or painter might use and parts of a

building that come already, like doors, windows and things like that? A. Well, possibly it is.

XQ94. Well, now, the contractor on those eight buildings of yours was named Harris Alport? A. Yes, sir.

XQ95. And he hired all the men? A. He hired all the men.

XQ96. And you had nothing to do with it? A. I had nothing to do with it.

XQ97. You made a contract with him? A. Yes, sir.

4517 XQ98. What is known as a lumping contract for the labor? A. For the labor; yes sir.

XQ99. How do you come to know why those two men quit? Did he tell you so? Did someone else tell you? A. Mr. Harris told me that some of the gentlemen called him down, Mr. Alport Harris.

XQ100. Only two men quit on that job? A. Yes, sir.

XQ101. Well, if Mr. Parshelsky says that Erickson and Goldberg and Wolfinger caused twelve to thirteen men of your carpenters to strike he is saying what is not so? A. There were twelve

4518 or thirteen men around the building standing ready, supposed to work.

XQ102. But they are not working? A. No.

XQ103. So if Parshelsky says that these men called a strike of twelve or thirteen he is wrong, isn't he? A Well, I would not say in the exact words whether it is wrong or right; I cannot judge.

XQ104. You know you did not have twelve or thirteen men there? A. They were outside waiting to go to work.

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XQ105. So you fired them before you gave them a job? A. I have not fired them.

XQ106. Did this Alport fire them before you gave them a job? A. Alport did not fire them. It was so pre-arranged, it looks to me, that they would not say exactly it was a strike; they don't say anything; when you take any of them side by side they will tell you all the troubles; I knew them personally; they say "We don't strike, we merely just don't want to work, that's all."

XQ107. Did you understand or believe that Miller had supplied most of this stuff? A. Yes, sir. 4520

XQ108. The stuff that was put on the job? A. Yes, sir; because then Mr. Erickson and Mr. Wolfinger called up Mr. Miller, Miller & Son, of 5th Street.

By Mr. Merritt—

RDQ109. You mean that all the stuff on the job that time was Miller's? A. No, only part of the stuff.

By Mr. Beattie—

XQ110. Didn't you understand that all of it was to come from Miller? A. No, because Mr. Parshelsky told me at that time—I did not get the doors then. 4521

XQ111. The strike of these two men occurred before they were any doors there? A. Yes; because we can work about two or three weeks without any doors in any of the buildings; there is always enough work to do without doors, and Mr. Parshelsky——

XQ112. Did you give this order to Miller & Company because it was a union concern? A. I?

XQ113. Yes. A. I did not give any orders.

XQ114. I thought you made a contract with Miller & Son and with Parshelsky? A. I never said this.

XQ115. How did you get this Miller stuff? A. Mr. Parshelsky mentioned to me that some of the stuff came from Miller & Son.

XQ116. Oh, some of his stuff? A. Yes. The whole lump contract was to Parshelsky.

XQ117. Did Parshelsky tell you that Miller was union? A. Yes, sir.

4523 XQ118. Was some of Parshelsky's stuff that was non-union on the job at the time these two men struck? A. Maybe; I don't know. I don't know exactly where he makes his stuff, because Mr. Erickson and Mr. Wolfinger called up Miller and saw him in the saloon, because when I came up to Mr. Erickson and mentioned the fact that the stuff is bought of Miller I said, "You go right immediately and call him up." He called up the headquarters at 84th Street and asked whether Miller was a union shop and they told him that Miller had lately had trouble with the union—they did not give him the right answer the same
4524 minute and he had to find out about it, therefore he was not satisfied with the answer whether Miller is a good union shop or whether it is not.

XQ119. Did Parshelsky tell them that the whole of the stuff had come from Miller? A. Only some casings, I believe, closets and some other things.

XQ120. Did they find afterwards that Miller & Son was all right? A. I don't know, I haven't looked it up, but I did not work any more with the union men; I did not look for it any more.

XQ121. You put on the non-union men and

went ahead? A. Yes, sir; I waited two weeks in succession.

XQ123. Are you going ahead now with non-union men? A. I have finished up my job now.

XQ123. What other trades did you have on the building, these eight buildings? A. I was surprised to see that they sent me some carpenters, union men, some of the carpenters were union men on my job.

XQ124. What other trades were working? A. The stairmaker has got a separate trade; they are a separate trade. 4526

XQ125. What other trades besides woodwork—carpenters—were on the job? A. Plumbers, plasterers—that is all about, at that time.

XQ126. They worked along with the non-union carpenters and finished the job? A. The plasterers were nearly done.

XQ127. They did work along to the finish of your job, whether it was one or two hours? A. They did.

XQ128. And they were union men? A. Union men; yes, sir.

XQ129. And the only non-union men on the building when you finished it were non-union carpenters? A. Non-union carpenters and some non-union painters. 4527

XQ130. You had some non-union painters? A. Six of them. I had two contracts; on the other houses we had union painters.

XQ131. You are talking about these eight houses? A. Yes, sir.

XQ132. Six of the eight houses? A. Six of the eight houses, yes, sir.

4528 Morris Weinberg, for Complainants—Cross.

By Mr. Maloney—

XQ133. When you ordered your goods from Parshelsky, you supposed you were going to get material which would be satisfactory to the union men, did you? A. Yes, sir.

XQ134. Then after you had this trouble at the buildings, or learned that the men would not go to work there—through Goldberg, was it? A. I found out by trouble before, a long time before. The contract was out.

4529 XQ135. When you learned that you were going to have trouble in getting union men to put up this material did you then go to Parshelsky and tell him about this? A. Parshelsky used to come over mostly every day to the job and I mentioned it.

XQ136. What did Parshelsky say then; that it was union material made by Miller? A. He mentioned to me that the closets and some trim are made by Miller & Son.

XQ137. What did he say about the parts that were not made by union people; did he say there were any parts not made by union people? A. He
4530 did not mention me none; I believe the Paine Lumber Company and he claimed he is selling the same doors to Levin & Cronenberg—they are buying the same doors, the same doors, and some to union mills.

XQ138. So that Parshelsky gave you his assurance that although it was Paine and other material, nevertheless it was acceptable to the union men? A. Yes, sir; up until lately he did not have any trouble. The trouble he claimed on my job was the first trouble, so he claimed to me.

XQ139. Did Parshelsky know that you were in

sympathy with union labor? A. Yes, I believe he knew it.

XQ140. Did he at that time know it? A. Yes, sir.

XQ141. Were these other shops besides Miller that you mention—Levin & Cronenberg & Company—were they a union shop? A. They were a union shop. Kalonship & Albert.

XQ142. Is that union? A. Yes, sir.

XQ143. Did Parshelsky tell you that part of the material he sold you was also from these shops? A. No. 4532

XQ144. He said that part of the material which he was selling to you was used by these shops and they were union shops? A. Yes, sir.

XQ145. So up to the time that you were actually starting on your work you had no reason to suppose that you would have any trouble with the union men at all? A. Yes, I had reason, because Mr. Wolfinger was over about three or four months before and told me that I should be careful and buy from a union mill stuff.

XQ146. That was after you had made your contract with Parshelsky? A. Yes, sir; about three 4533 months before the stuff came over.

XQ147. Did you tell Wolfinger then that you had made a contract with Parshelsky? A. No, I did not tell that; no, I did not.

XQ148. Did you believe then at the time that Wolfinger was talking to you that the material which Parshelsky was going to supply you would not be satisfactory to the men? A. Yes, sir; I found that afterwards when my contract was made that there was some trouble about it.

XQ149. From whom did you find that out? A.

Some other people told me—they were talking that they were going to stop his material on account of non-union labor.

XQ150. That Parshelsky was using non-union material? A. Yes, sir.

XQ151. And then you realized that having bought your material from Parshelsky you were likely to have trouble? A. Yes, sir.

XQ152. It was after that you went to Parshelsky and he told you that this material which he was supplying to you was also being supplied by
4535 him to these union shops? A. Not immediately; that means afterwards.

XQ153. I mean afterwards. A. After the material arrived he tells me that he sold to Levin & Kronenberg, and he gave me an estimate on about $28,000 worth of material for the same five or six months.

XQ154. Did you ask Parshelsky to release you from your contract and to furnish you with material which would be union trim without any doubt? A. Not exactly. I asked him he should release me; I would like to be released, yes, sir.

XQ155. And he would not allow you to be re-
4536 leased? A. No, sure not.

XQ156. When did you make an affidavit for Parshelsky? A. I don't remember the exact date, about six or seven weeks ago.

XQ157. At your house? A. At my house.

XQ159. And who was present? A. A gentleman, I don't know his name, I don't recollect his name, and the same lady.

XQ160. The stenographer who is taking this testimony was there? A. This lady, yes, sir.

XQ161. You don't know who the man was? A.

4537

Well, I believe he just passed through here—when I was sitting outside I believe I saw him coming in here.

XQ162. Some man you have seen in this office where you are now testifying? A. Yes, sir; I was in this office in the morning.

XQ163. You came here in this office first? A. No; not in this office.

XQ164. What room did you go into? A. I believe in the same floor in some other room.

XQ165. The American Anti-Boycott Association? A. Yes, sir.

4538

XQ166. And was it there that you saw the man that you have seen passing back and forth here? A. I have never seen this gentleman before (referring to Mr. Merritt).

XQ167. You did not see Mr. Merritt, but you saw some other gentleman? A. Some other gentleman.

XQ168. Do you know whether Parshelsky is a member of the American Anti-Boycott Association? A. Well, I believe he told me that he just lately became a member.

XQ169. He has? A. Yes.

4539

Mr. Merritt: I move that this be stricken out as hearsay, incompetent, irrelevant and immaterial.

XQ170. Did Parshelsky tell you when he joined the American Anti-Boycott Association?

Mr. Merritt: Same objection.

A. Not exactly the date; he mentioned to me just about a week or two ago, he mentioned that he joined it.

Mr. Merritt: I move that that be stricken out on the same ground.

By Mr. Beattie—

XQ171. Did he tell you what for? A. Well, he told me merely to protect his interests and so on.

XQ172. So that he could commence actions without expense to him? A. He said it cost him a big sum of money to join that.

XQ173. It cost him a good deal of money to join the American Anti-Boycott Association?

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Mr. Merritt: Same objection.

XQ174. As much as $50? A. He did not tell me the price. I said, "It seems you are going out in an automobile and we have to pay it." He said, "Don't worry; it cost me enough money, your fights. I just joined the American Society and it cost me a lot of money."

Mr. Merritt: I want to record my objection to this entire line of testimony.

XQ175. Are you a member of the American Anti-Boycott Association? A. No, sir.

4542 XQ176. Did he want you to be a member? A. Well, he knew that I will not become a member.

XQ177. Why wouldn't you be a member? A. Because I don't believe in it; I believe that there are some rights, that the union have a right to boycott. I would be with the unions all the time.

XQ178. Don't you believe that the union carpenters have a right to work where they please? A. Absolutely.

By Mr. Maloney—

XQ179. As I understand it, Mr. Weinberg, you, at the time you made your contract with Mr. Parshelsky, did not know there was any trouble amongst union men about any kind of material? A. Yes, sir, absolutely so.

XQ180. And therefore, when you made your contract with him, you had no reason to suspect that there would ever be any trouble about it at all? A. Yes, sir.

XQ181. Later on, you heard that Parshelsky was selling material to which the union men objected? A. Yes, sir. 4544

XQ182. And that was the first you knew about it? A. Yes, sir.

XQ183. It was then or after that, that you asked Parshelsky to release you from the contract and he refused? A. Yes, sir.

Re-direct examination by Mr. Merritt—

RDQ184. Did you tell some one they must not use that affidavit you had made? A. Yes, sir.

RDQ185. To whom did you tell that? A. Parshelsky. 4545

RDQ186. You told Mr. Parshelsky that? A. Yes, sir.

RDQ187. You say you were put on trial because you employed non-union men? A. Yes, sir.

RDQ188. On this particular job concerning which you have been testifying? A. Yes, sir.

RDQ189 Who put you on trial? A. Some working man from an organization came up there and made a complaint of them, he got three or four men and asked if they wanted to have a hearing of me.

RDQ190. What organization was this? A. Labor Lyceum Association.

RDQ191. Who made the complaint, if you know? A. I don't know the exact man, they did not give me the name

By Mr. Maloney—

RXQ192. Is that an orzanization that you belong to? A. That I belong to; yes, sir.

By Mr. Merritt—

4547

RDQ193. Did some one make a complaint to your organization? A. Yes, sir.

RDQ194. And you were then put on trial for employing non-union men on this job? A. Yes, sir.

RDQ195 Now other trades were working on this building with the non-union carpenters? A. Yes, sir.

RDQ196 What other trades? A. Plumbers and plasterers.

RDQ197. How many plumbers? A. About four or five.

4548 RDQ198. And plasterers? A. About four of them.

RDQ199. How long did the plasterers work with them? A The plumbers worked until the last month. The plumbers worked about four weeks.

RDQ201. About all the time that the non-union carpenters were there? A. Yes, sir; about all the time.

RDQ202. As I understand it, when you purchased this material from Parshelsky, you did not give any thought as to whether it was union or

non-union, because you had never heard that there was any trouble about any such distinction? A. I never knew there was trouble, as I never heard any trouble for some time, and it did not come into my mind that there would be any trouble.

By Mr. Mayer—

RXQ204 You had always bought it from the Iroquois? A. Yes, sir.

RXQ205. And that was a union shop? A. Yes, sir.

RXQ206. And therefore you had never had any 4550
trouble? A. No, sir; never had any trouble.

By Mr. Beattie —

RXQ207. These charges referred to your employing what kind of non-union men? A. I don't know whether by the painters or carpenters.

RXQ208. You had not employed any non-union carpenters up to that time? A. What do you mean, the charges?

RXQ209. When the charges were made in the Labor Lyceum? A. The charges came up just two weeks ago.

4551

RXQ210. I understood it was the night you had had the conference with Wolfinger? A. Two weeks ago.

RXQ211. Parshelsky says he told you it was the night before? A. No.

RXQ212. If he says that he is absolutely wrong again? A Absolutely wrong.

RXQ213. Then these charges you have referred to was employing non-union painters as well as non-union carpenters? A Maybe it is only non-

union painters. I would not say that the carpenters made the charges. I don't know who made the charges.

RXQ214. You don't know of your own knowledge that any of this stuff was from the Paine Lumber Company or the Gould Company or any other of these complainants, do you? A. Well, the doors.

RXQ215. Do you know that for sure? A. I don't know for sure. They mentioned to me that the doors were from Paine.

4553 RXQ216. Who? A. Parshelsky and the delegates mentioned it to me, too.

RXQ217. There was no way for them to know or for you to know it? A. There was no way, they claimed that they believed that Parshelsky got the doors from the Paine Lumber Company.

Mr. Beattie: I ask that all of this evidence be stricken out on the ground that it has not been shown that these defendants did anything in connection with the complainants' material, by this testimony.

Mr. Maloney: I move to strike out as in-
4554 competent, irrelevant and immaterial, hearsay, not binding on the defendants, relating to matters occurring since issue was joined, and not pleaded.

Mr. Mayer: Same motion.

Defendants' Counsel produce By-Laws of the Joint District Council, and Complainants' Counsel offers them in evidence as Comp. Ex. 38 of this date.

Defendants' counsel object to them as incompetent, irrelevant and immaterial, except

 4555

that no objection is made that they are not the by-laws of the Joint District Council.

Adjourned to Friday, April 12, 1912, at 2 P. M.

PAINE vs. NEAL.

Hearing Friday, April 12, 1912, 2 P. M.

4556

PRESENT:

COMMISSIONER SHIELDS,
MR. MERRITT,
MR. BEATTIE,
MR. MALONEY,
MR. WHITTAKER,
MR. MAYER.

ISAAC PARSHELSKY, a witness called on behalf of complainants, being duly sworn, testified as follows:

4557

Q1. What is your full name? A. Isaac Parshelsky, 279 Howard Street, Brooklyn.

Q2. You are connected with Parshelsky Brothers, incorporated? A. I am, yes.

Q3. That is a New York corporation? A. Yes, sir.

Q4. What office do you hold? A. I am the treasurer.

Q5. How long have you been treasurer? A. Since the organization of the company.

Q6. About how long ago was that? A. 1908.

Q7. Now that company is engaged in business as a jobber of doors, sash, blinds, trim, plate and window glass? A. Yes, sir.

Q8. In the course of business, then, you purchase from manufacturers doors, sash, blinds, etc.? A. Yes, sir.

Q9. Where is the company's principal office? A. 217 Havemeyer Street.

Q10. About how much business do you do a year? A. Between $400,000 and $500,000, over $400,000, anyhow.

4559 Q11. And about what proportion of that is in glass? A. Well, in glass between 33% and 35%.

Q12. The rest of it is in these various kinds of wood material? A. Yes, cash doors and trim.

Q13. You have dealt with some of these plaintiffs from time to time? A. Yes.

Q14. You have dealt with the Paine Lumber Company? A. Yes.

Q15. Gould Manufacturing Company? A. Yes.

Q16. R. McMillen Company? A. McMillen, no; I never dealt with McMillen.

Q17. Bristol Door & Lumber Company? A. Yes.

4560 Q18. W. D. Crooks & Sons? A. No.

Q19. Curtis & Yale Company? A. No.

Q20. Lotham Cypress Company? A. No.

Q21. The Morgan Company? A. I have dealt with them.

Q22. You have dealt with four of the plaintiffs, Paine, Morgan, Gould and Bristol? A. Yes.

Q23. What proportion of your wood materials have you purchased from non-union shops? A. Well, I should judge—well, I have not got the figures right, but I think between 70% and 75% from non-union shops.

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Q24. And you purchased some from union shops? A. From union shops, yes.

Q25. Where do you get your doors from? A. We buy now from the Paine Lumber Company. We have been buying from the Morgan Company until about six months ago.

Q26. These are two concerns that you got your doors from? A. Doors, yes.

Q27. You are dealing with the Bristol Door & Lumber Company now? A. I am; yes, sir.

Q28. Can you give us the figures, about how much business you do with these concerns? A. 4562
Well, I think with the Paine Lumber Company last year we did pretty nearly $60,000.

Q29. You could get us the figures more exactly, couldn't you? A. Oh, yes; more exactly if you wanted them.

Mr. Merritt: We had better have him bring them.

Q30. In the spring of 1911 you had a contract with B. Crystal & Son? A. Yes.

Q31. Do you know when that contract was made? A. I cannot tell you exactly what month it was in; April, I think it was, or something like that, 4563
April or May.

Q32. What was this contract for? A. The cash and the glass in the apartments in Riverside Drive near 119th Street.

Q33. Now did you ever have any conversation with Alexander Kelso concerning this contract? A. I did, yes.

Q34. About when was that? A. Well, it was about after we sent the sash there. I can't tell you just exactly now, but I could find out if you

4564

wanted it, just exactly when we did send the sash there.

Q35. Did you have any conversation with Harry Cook concerning it? A. Yes .

Q36. Did you see them both together? A. Yes.

Q37. Now tell me what was said by these men in relation to this contract?

Mr. Beattie: I object to that, incompetent, irrelevant and immaterial.

Mr. Maloney: Hearsay, not binding on these defendants.

4565

A. When we sent the sash there they would not allow Mr. Crystal to use the sash.

Mr. Mayer: I move to strike that out.

Q38. Is that what they told you? A. No.

Q39. Just tell me what they said? A. They said they wanted me to come down to 59th Street to their headquarters when they had a meeting to see what could be done about using the sash, as it was non-union sash, and when I got down there they wanted me to join the association, that I would not use any non-union sash.

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Q40. What do you mean, sign an agreement? A. Yes, sign an agreement, the same as the other people signed with them had.

Q41. Did they mention the names of any other people? A. Yes.

Q42. Whom did they mention? A. Werbelowsky and Friedlander, Mr. Arnstein, Edmunds, and some more, I don't remember just now who.

Q43. Is that Jacob Friedlander? A. No, not Jacob.

Q44. Joseph? A. Yes, Joseph Friedlander.

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Q45. Were they competitors of yours in Brooklyn? A. The company, yes.

Q46. You say they wanted you to sign an agreement like these other men had signed? A. Yes. And then he told me if I did not sign the agreement they would not allow Crystal to use the sash.

Q47. Who told you that? A. Kelso. So while I was down there they took me in before the committee. There were about eight of them there altogether and they asked me why I did not want to enter into an agreement with them that I would not buy 1¾" sash from these open shops and I 4568
told them at that time that I had a contract with these people out of town and I did not know just what to do, but I would take the matter under consideration.

Q48. To whom were you referring when you said you had a contract? A. With the Paine and Gould Manufacturing Company, for to purchase their sash.

Q49. What was the amount of this contract with B. Crystal & Son when you furnished material for them? A. Over $2,500.

Q50. Now this conversation concerning this agreement took place at 59th Street, at the head- 4569
quarters? A. Yes. But before I went to headquarters I had seen Mr. Kelso at Crystal's office. That was the first time I met Mr. Kelso.

Q51. Did you have any conversation with him concerning this matter? A. Yes, that is how it started. He called me up on the 'phone, Ed Crystal did, and he said they are not allowed to use our sash, because it is non-union sash. Told me to come over the following day and I went over there and when I got there Mr. Kelso was there, the

first time, and he told me to come down to see him in the meeting, and I went down there and that is where this conversation took place.

Q52. Well, now, this sash was subsequently hung, wasn't it? A. Yes, sir.

Q53. How long did it remain unhung? A. Over a month.

Q54. Did you make any effort to help Mr. Crystal in getting it hung? A. Yes.

Q55. What did you do? A. He said the carpenters would not hang them, I said: "If your carpen-
4571 ters don't hang them I will send carpenters over to hang them for you and you pay for it." He said he would be satisfied to do anything so long as he could get the sash hung. So when I offered to send the carpenters over there to hang them he told me no, to hold it off for a day or two and after a whole lot of time was lost these union carpenters they finally hung them—his own carpenters hung them.

Q56. The ones that were orginally there before? A. Yes.

Q57. Then you did not suffer any loss in that matter at all? A. Yes, I did suffer a loss.

4572 Q58. In what way? A. Why, when the account was straightened out he took off $100, which he says——

Mr. Beattie: I object, incompetent, irrelevant, immaterial.

A. (cont.) which he says——

Mr. Beattie: Who said? A. Mr. Hyman Crystal—the oldest son.

Mr. Mayer: I object to what Hyman told him.

Q59. Why did he make the deduction in the bill? A. He said he had to give the walking delegates $500 and he first wanted to take off $500, then he came down to $250. I said: "No, nothing doing," and he finally settled it for $100.

Mr. Maloney: I move to strike that out as incompetent, irrelevant and immaterial, hearsay, and raising other issues that are calculated to prejudice the defendants.

Q60. When these men were asking you to sign this agreement, did they state anything to you as to what would be the result if you signed the agreement, or the result if you did not sign the agreement? A. Kelso said if I did not sign it, I would be sorry, if I did not sign it. If I did sign it, I could go along and do business like everybody else did, would not have any trouble.

Q61. Did you have any trouble with the sale of any of your goods after that time down to the fall of 1911? A. Well, they would not allow me to sell any material in New York, in Manhattan.

Mr. Beattie: I ask that that be stricken out as incompetent, irrelevant and immaterial, and not the best way to prove it.

Q62. You mean, you did have customers in Manhattan? A. Yes, and they refused to buy from us because we dealt in non-union sash.

Q63. Can you give me the names of any of those customers?

Mr. Beattie: Same objection.

A. Yes, I can give you some names. We used to sell all the sash to Joseph Friedlander and he

had six or eight jobs in New York which he gave to us, and afterwards he said no, he did not want to have any trouble.

Q64. Who told you that? A. He did, and the president of the concern, his name is Bernstein. Then we sold sash to Louis Marks & Son and they did not give us any more orders.

Q65. Did you talk with them as to why they would not give you orders? A. They told me, yes, we are afraid to take some chances because you deal in non-union sash.

4577 Mr. Beattie: I move to strike that out.

Q66. Do you recall anyone else now? A. I think we had some trouble on the Hoyne job—I am not sure now, but I think we had trouble on Hoyne. I would not be sure about Hoyne.

Q67. That was some time after you had the trouble with the Crystal job? A. Yes.

Q68. How long after? A. Oh, probably about a month or so.

Q69. Now, you made a contract with one Philip Schmidt, didn't you? A. I did, yes.

Q70. He is a builder in Brooklyn? A. Yes, sir.

4578 Q71. And about when was that contract made? A. I think that was made in November.

Q72. What was the amount of it? A. Altogether, it is something like between $4,700 and $4,800, something around that, anyhow.

Q73. That included trim, doors, etc.? A. Trim, doors and sash.

Q74. Where did you get the doors? A. From the Paine Lumber Company.

Q75. Where did the trim come from? A. From the Bristol Door & Lumber Company.

Isaac Parshelsky, for Complainants—Direct. 4579

Q76. Did you have any talk with any of the representatives of the union concerning that job? A. Yes, I spoke with Wolfinger, and a man named Dhuy.

Q77. Concerning this particular job? A. I did, yes.

Q78. Do you remember what they said to you? A. Well, we had three or four conversations at different times. Any particular time?

Q79. Well, do you recall their making any objection to you about the use of the trim on that job? A. Oh, yes, when he found out the trim came 4580
from our shop, from us, he called a strike on the job, and I went there——

Mr. Beattie: I ask that that be stricken out.

A. (cont.) I went up on the job and he was there and I went over and had a talk with him. "What's the trouble?" He said: "Don't you know what the trouble is?" I said: "No." He said: "Don't you know this man's getting stuff from unfair shops not belonging to the unions?" I said: "I know that." He said: "Well, 4581
we will allow no union carpenters to handle it." So then he said to me: "Why don't you belong to the association like every one else does, and you won't have any trouble." He said: "Now." He said: "This stuff up here ought not to be used anyway it's no good." I said: "How do you know it's no good? It isn't it up to you to say it's no good. Let the owners of the house tell me it's no good." We had quite some argument and I said: "Why

don't you have this matter fixed up and straightened out?" He said: "No, we won't allow union carpenters to work here unless you agree to join the association," and he said: "This ain't the only job we'll make trouble on for you. We'll make trouble for you on every job in this town."

Q80. Now you made a contract with another builder in Brooklyn, by the name of Rudolph Norek? A. Yes.

Q81. And that covered the doors, sash, trim, etc., for certain buildings on St. John's Place and
4583 Schenectady Avenue? A. Yes.

Mr. Maloney: I move to strike out all the testimony about the Philip Schmidt job, incompetent, irrelevant and immaterial, hearsay, and not binding on the defendants, as relating to matters subsequent to the joinder of issue and not pleaded.

Q82. Now this man Norek was a builder? A. Yes.

Q83. Where did you get your doors from for his job? A. From the Paine Lumber Company.

4584 Q84. Where did the trim, or most of it, come from? A. The wardrobes and all the closets came from Levin Kronenberg, who is a union shop.

Q85. Well, where did the trim come from? A. The Selden Cypress Company, Palatka, Florida.

Q86. There were some store fronts, where did they come from? A. From Miller & Company, New York, East 5th Street.

Q87. Are they a union shop? A. Yes, a union shop.

Q88. Now, you visited that job from time to

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time? A. I did, yes.

Q89. Can you state of your own knowledge as to whether any strike took place on that job? A. It did.

Q90. This was the time when a strike had taken place, some time in March of this year, 1912? A. Yes, 1912.

Mr. Maloney: I make the same motion with reference to this evidence as to the Schmidt evidence.

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Q91. How do you know of your own knowledge that a strike took place? A. Because when the stuff came there the owner telephoned me to come up there, he had some trouble on the job; when I went up there I saw the owner and I said: "What's the matter?" He said: "Don't you know what's the matter?" I said: "No." He said: "The carpenters refused to hang the stuff. Mr. Erickson was here and he said they cannot use any material that is bought from Parshelsky, because he deals in unfair material."

Q92. Were there any carpenters working on the job when you went there? A. No.

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Q93. Now you also had a contract with Joseph & Goldberg, builders, in Brooklyn? A. I did, yes.

Q94. What was the amount of that? A. $2,950.

Q95. Did any of that come from the plaintiffs in this suit? A. Yes.

Q96. From whom? A. The doors came from the Paine Lumber Company and the fronts came from Miller & Co., the wardrobes and closets came from Levin & Kronenberg—they are not in the suit, are they, though?

Q97. No. Did you have any talk with any of the business agents of the Carpenters' Union, in connection with this job? A. I did not talk with them, but I was there when the delegate came up and told the men that they should stop.

Q98. Did you hear him? A. Yes, sir.

Q99. What is his name? A. Mr. Swenson.

Q100. Dd you hear him give any reason when he told them to stop? A. He told the men to stop because it came from unfair shops and was non-union. Told the men to stop and come to Jamaica to report to headquarters.

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Q101. Did you have any conversation with any of these carpenters on that job yourself? A. I did, yes.

Q102. Did you ask them why they did not go to work? A. I did.

Q103. What did they say? A. I said, "Why don't you men go to work?" They said: "Sure, we want to go to work, but if we go to work we'll be thrown out of the union and be fined."

Mr. Beattie: I ask that that be stricken out, incompetent, irrelevant and immaterial.

Mr. Maloney: Hearsay, indefinite.

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Q104. Do you know the names of any of the men who said that to you? A. No, I don't know the names of them.

Q105. Now you have got a customer by the name of Samuel Kellner, have you not? A. Yes.

Q106. Have you made any attempt to sell him materials recently? A. Yes. He is putting up two big apartments at Eastern Parkway and he said before he would do any business with us again he

is afraid about the unions; he hears of all the trouble we have got around town with the unions; he don't want to take any chances.

Q107. Can you tell with certainty where you would have purchased the doors for that contract if you had secured it? A. From the Paine Lumber Company.

Q108. You purchased all of your doors from the Paine Lumber Company? A. Yes, I have a contract with them to purchase all our doors from the Paine Lumber Company.

Q109. Does that mean all your doors, or all the 4592
doors of a certain kind? A. All the hardwood doors.

Q110. You had a contract with Morris Weinberg, who testified here yesterday, didn't you? A. Yes, I had an account with Morris Weinberg.

Q111. What was the amaunt of that contract? A. $5,000.

Q112. Did it cover doors and wood trim, etc. A. Yes, sir.

Q113. Where did the doors come from? A. The doors came from the Paine Lumber Company.

Q114. Did any of the other part of the material
come from any of the plaintiffs? A. Well, the 4593
sash came from the Gould Manufacturing Company.

Mr. Maloney: I object to all further testimony along this line in this case, on the ground that this testimony, assuming that it is competent or relevant or material in any respect, is but a repetition of pages and pages of testimony to the same effect, and is cumulative, and I move to strike it out as incom-

petent, irrelevant, immaterial, hearsay, and to strike it out as cumulative, and dragging out the record to unreasonable lengths on the same subject.

Q115. Have you had any trouble on any other jobs where material of the Paine Lumber Company other than the plaintiffs was being used? A. On the Kappel job.

Q116. Where is that? A. Howard and St. Marks Avenue.

4595 Q117. Is that a similar trouble? A. Yes.

Q118. On any other jobs? A. On the Abrahamson job, on Eastern Parkway and Sterling Place.

Q119. Is that a similar trouble? A. Yes.

Q120. How about this Rappaport? A. Yes, on the Rappaport and Malafsky.

Q121. Do you know whether the men actually quit work on that job? A. On the last?

Q122. Yes. A. They have stopped there at the starting.

Q123. They did not go to work? A. No. It is all right now.

4596 Q124. But those last three jobs, any trouble you have had on them has all been within the last month? A. Yes, within a month.

Q125. Have any of your regular customers refused to do business with you? A. Yes, I did lose a lot of business on account of the union trouble. I lost the Joseph Aaron on that account.

Q126. Did they give you that reason? A. That is what he told me, he did not want to give me any of the business, he was afr...d, on account of the unions.

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Mr. Beattie: I ask that that be stricken out, incompetent, irrelevant and immaterial.

Q127. Who was the man who said that? A. Joseph Aaron. I did a lot of business with J. S. Matthews, and he refused to buy any more material from us on account of the union troubles.

Q128. Did he tell you so? A. Yes.

Q129. How about Nathan Tapol? A. Yes, he also; the same reason.

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Mr. Mayer: I object to all this testimony, incompetent, irrelevant, hearsay, not properly proven, in no way connected with the alleged conspiracy set forth in the pleadings.

Mr. Beattie: Same motion.

Q130. Have there been others? A. Yes, lots of others.

Mr. Maloney: I move to strike out the last as incompetent, hearsay.

Cross-examination by Mr. Beattie —

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XQ131. Are you a member of the American Anti-Boycott Association? A. I am not.

XQ132. Is the concern, Parshelsky Brothers, Inc. ,a member? A. No, they are not.

XQ133. Have they ever been members? A. No, sir.

XQ134. Are any of the officers of it members? A. No, sir.

XQ135. When were you first in the offices of the American Anti-Boycott Association? A. The time we had the trouble on the Crystal job.

XQ136. How many times have you been here since? A. Oh, probably four, five or six times.

XQ137. Isn't the American Anti-Boycott Association acting for you in connection with an action you have just brought in the Supreme Court in Brooklyn? A. No, sir.

XQ138. They furnished a lot of the evidence, didn't they? A. I gave it over to a counselor here in William Street.

XQ139. Didn't they furnish you with a long printed affidavit made by one Jennie Notten? A.
4601 I don't know where he got it from.

XQ140. Didn't you come here to try to get such evidence from the American Anti-Boycott Association? A. No, sir, I did not.

XQ141. Didn't you try to get the American Anti-Boycott Asosciation to bring contempt proceedings in connection with this Philip Schmidt job against these carpenters? A. Yes.

XQ142. But they refused to do it? A. Yes, sir.

XQ143. Why did they refuse to do it? A. Because I did not belong to the Asosciation.

XQ144. Who did you see about it? A. Mr. Merritt.

4602 XQ145. Didn't you want to become a member of it? A. I did, yes.

XQ146. Wouldn't they take you in? A. No, sir.

Mr. Merritt: I want to object to this testimony as incompetent, irrelevant nad immaterial and move that it be stricken out.

XQ147. Why didn't they take you in? A. They said they don't take anybody in if theyare in trouble.

Mr. Merritt: Same objection to this entire line of testimony.

XQ148. If they are in trouble? A. Yes.

XQ149. Did they tell you they had ever refused to take anybody else in? A. No, I don't remember that.

XQ150. Well, now, these carpenters have nothing against you personally or your corporation, except that handle non-union material, isn't that it? A. Yes, sir.

XQ151. They would be glad enough to put up 4604
your goods if you bought union goods, wouldn't they, so far as you know? A. I suppose so, I don't know any other reason.

XQ152. And your goods are practically all non-union? A. Oh, no.

XQ153. Well, 70 to 75 per cent. is non-union. A. Yes.

XQ154. Is that of the woodwork? A. Only of the woodwork.

XQ155. How about glass? A. Well, there is not any union that I know of in glass.

XQ156. There is no union in glass? A. No, sir. 4605

XQ157. You are really the agent in this city for the Paine Lumber Company on doors, are you not? A. No, I am not the agent, they have their own agent over here, we are only a jobbing house.

XQ158. You are the largest jobber in this town to handle Paine doors? A. Yes, we are the largest dealers in Brooklyn.

XQ159. Have you got your contract with them with you, with the Paine Lumber Company? A. No, not here.

XQ160. Have you got your contract with the Gould Manufacturing Company? A. Not with me, no.

XQ161. Will you bring them at the next hearing? A. I will, yes, I will bring them here.

XQ162. What association did you understand these business agents to say that you should join? A. Well, he gave me a catalogue a small little catalogue, I don't know whether I have it here or not.

XQ163. What you thought they meant was, by
4607 association, that you should become a person that would handle union goods? A. Yes, union goods only, that belonged to their association.

XQ164. Didn't you understand that they wanted you to join the Master Carpenters' Association? A. No.

XQ165. Would you be eligible as a handler of goods? A. I don't know what the rules are.

XQ166. Don't you know that the Master Carpenters' Association here, including a large part of the builders, have refused and made a contract to refuse to handle non-union wood goods? A. I did not know that, no. I did not know that there
4608 was such a contract.

XQ16E. Didn't you know they had made that contract with the Brotherhood of Carpenters? A. No, sir.

XQ168. You did not expect these union carpenters to handle non-union goods, did you? A. Well, they had been doing it before; there was no trouble until now.

XQ169. These goods are not marked, are they, with your name? A. Yes, the factory sends them

to us and the name gets marked on the bundles. Sometimes the name gets marked on the edge of the door.

XQ170. What name? A. Parshelsky Brothers.

XQ171. The name Parshelsky? A. Yes.

XQ172. Is there any way to tell whether the goods that are so marked with Parshelsky are union or non-union? A. No. They have got them on the Paine doors, "Korelock."

XQ173. The doors that you handle are all non-union? A. Yes.

XQ174. And is the sash non-union? A. Yes. 4610

XQ175. These carpenters don't refuse to handle your 1⅜ sash? A. No.

XQ176. They put that up for you as well as for anybody else? A. Yes, sir.

XQ177. And they will put up for you any of Miller Company's goods? A. Yes.

XQ178. Because that is a union shop, won't they? A. Yes.

XQ179. And they will put up for you any goods that you buy from Levin & Kronenberg Company? A. I suppose they will.

XQ180. They never objected to doing it? A. No, they have not. 4611

XQ181. In other words, if you can show them that anything you sell is union, then they will put it up, and if it is non-union, they won't put it up? A. I suppose so.

XQ182. That is what you understand to be their position, isn't it? A. I know, but they refused to put them up on the Norek job; the closets came from Levin & Kronenberg.

XQ183. But they did not know? A. Yes they did, I told them.

XQ184. But they were along with a lot of other materials which were not union? A. Yes.

XQ185. Now, this conversation that you had with Crystal, didn't that refer, so far as Crystal is concerned, to the expense he had been put to by the strike on his building when he asked you for a deduction? A. No. He told me that that is what he had to pay to get the sash hung.

XQ186. To get the sash hung? A. Yes.

XQ187. Didn't he tell you that he had had his men out of work for a week and he had been dam-
4613 aged by the delay? A. No, that did not enter into it.

XQ188. He did not say that to you? A. No.

XQ189. And he had to have them work Saturday afternoon, when he had to pay them double time? A. No, sir.

XQ190. Didn't he tell you that? A. No, sir.

XQ191. So if he has made an affidavit to that effect it is not so? A. Yes, sir; if that is what he made an affidavit to, it is not so.

XQ192. That man Benjamin Crystal is dead, isn't he? A. Yes.

XQ192. Died since this matter? A. Yes. Ben-
4614 jamin is the old man?

XQ193. Yes. A. Yes, then Benjamin Crystal—I don't know whether his name is Benjamin or not—he is dead.

XQ193. Have you got this agreement that you say that these carpenters' delegates wanted you to sign? Have you got that with you? A. No, they did not leave it with me.

XQ194. Did you read it? A. They said it was the same kind of agreement that Joseph Friedlander and Werbelowsky signed?

XQ195. They said so? A. Yes.

XQ196. You did not know? A. No.

XQ197. Did you examine that contract? A. A. Yes, I saw it.

XQ198. Do you know if it was the same contract? A. They said they wanted me to sign one like it.

XQ199. That contract provided that they would put up 1⅜ or less sash? A. I don't remember, but I am positive that 1¾ has to be bought from union factories.

XQ200. But any smaller size you can buy from a non-union shop? A. I believe that is right.

XQ201. And they would put it up? A. Yes.

XQ202. And didn't it except outside blinds and certain other woodwork, too? A. No, it was only in regard to the sash.

XQ203. There was no other exception? A. I don't believe there was.

XQ204. Did you see Mr. Werbelowsky to see if he had made an agreement? A. Yes.

XQ205. He had made one? A. Yes, he did sign an agreement.

XQ206. And they have been putting up his goods ever since the agreement, have they, as far as you know? A. I suppose so, he didn't have any trouble.

XQ207. Did you know that those dors and trim and other things you bought from the Paine Lumber Company were in part made by women working on buzz saws and otherwise in their factory? A. No, sir.

XQ208. You did not know that? A. No, sir, because it ain't so, because I was up there many a time; never saw women working on the buzzsaws.

XQ209. If Mr. Paine swore that four of them do now work on buzzsaws, or did last September, would you believe him, or believe what you saw? A. I believe Mr. Paine, but the buzzsaws I saw, I did not see them working on buzzsaws.

XQ210. Didn't you see women working there? A. Yes, but not at the buzzsaws.

XQ211. It would not make any difference to you as to where you purchased your goods, even if you knew that women were working on buzzsaws on the goods you were buying, wouldn't that make
4619 and lifference? A. I don't think so, no.

XQ212. The whole thing is where you can get the goods cheapest? A. Yes, and the proper kind of material.

XQ213. You can get the proper kind of material where it is made by men, as well as by women, can't you? A. I don't know, all the factories are about the same that I know of.

XQ214. They all make proper material? A. No, they all use the same people, I suppose if there are women working in Paine's there are women working in other factories, but I never saw them working on buzpsaws.

4620 XQ215. What did you see them do? A. Down in the office, in the packing room and in the glue room.

XQ216. Dd you go to the buzzsaw district of the factory? A. I went all through the factory.

XQ217. How often? A. Oh, probably half a dozen times in the last three years.

XQ218. You were out there when we were examining Paine at Oshkosh, weren't you? A. Yes, I was there.

XQ219. Had you made your agreement with

Paine at that time? A. Yes, sir.

XQ220. Was that the time you made your agreement with them, when you were out there? A. We did have a contract until that time, but that time it expired and I went out there to make a new agreement with them.

XQ221. How did you come to change off from Gould to Paine on the doors? A. We did not buy any doors from Gould, they only sold us the sash.

XQ222. I thought you said that the last six months you had bought doors from the Paine? A. No, from the Morgan. 4622

XQ223. You changed off from Morgan to Paine? A. Yes.

XQ224. Why did you change off? A. Because I got better inducements.

XQ225. What are the better inducements? A. The goods, I can buy them cheaper and they come here in much quicker time.

XQ226. Isn't it a common thing when there has been a strike caused through furnishing non-union goods, for you to make some allowance to the contractor if he is a loser by that? A. No.

XQ227. It s not a common thing? A. No, I did not agree to sell union material. 4623

XQ228. Didn't you agree to sell Crystal material? A. Yes.

XQ229. Didn't you know that they were members of the Master Carpenters' Association? A. I don't know it.

XQ230. Didn't you have any agreement with any of these people you have spoken about, Philip Schmidt? A. No, sir.

XQ231. Joseph & Goldberg? A. No.

XQ232. Mr. Kellner? A. No.

XQ233. Malafsky and Rappaport? A. No, sir.

XQ234. Abraham Kappel? A. No, sir.

XQ235. To furnish union material? A. No, sir.

XQ236. You said on this Malafsky & Rappaport job that the men are going on with the work? A. Yes.

XQ237. That is, your non-union material is being put up now by union carpenters? A. Yes, sir.

XQ238. When you told Crystal & Sons that you would furnish them with carpenters, did you mean with union carpenters? A. Sure.

4625 XQ239. You could get union carpenters? A. Yes, sir.

XQ240. To put up your work? A. Yes, sir.

XQ241. Can you get all the union carpenters you want to put up any of your work? A. I suppose so.

XQ242. Do you know it? A. Yes, I think so.

XQ243. That is, on any of these jobs, Norek, Schmidt, Malafsky & Rappaport, Kellner, Philip Schmidt, Kellner, Morris Weinberg and Abraham Kappel; could you furnish union carpenters to put up your work on all of those jobs? A. I suppose so, if the builder wanted them.

4626 XQ244. Did you offer these builders to put in carpenters to put up your work? A. I told him to do the same as the other men are doing, the same as on the Schmidt job, he has got union carpenters; he advertised for union carpenters in the newspapers—he had 500 of them come looking for work.

XQ245. Do you know whether they got union ones or not? A. Yes, sir, every man that Schmidt employed belonged to the union.

XQ246. How did you know? A. Because they had to have the cards.

XQ247. How do you know? A. I was there, he told me.

XQ248. Did you examine the cards, too? A. No, I did not examine every card, but I saw some people did not have cards and he said, "I won't employ you unless you can show me you are a union man."

XQ249. You could have got plenty of non-union carpenters too, couldn't you? A. Yes.

XQ250. There are lots of them in Brooklyn? A. There are lots of non-union carpenters, yes.

XQ251. Are you pretty familiar with the trade? Are there as many non-union as union in Brooklyn? A. No, I think there are more union carpenters.

XQ252. Is there much difference in price, so far as you know? A. I did not count them. I know there are a lot of union and a lot of non-union.

XQ253. Well, there are plenty of them anyway to do these jobs of yours, union and non-union? A. Yes, there are lots of carpenters around.

XQ254. Well, now how is this Malefsky & Rappaport getting along with their job, is there any interference on that job? . AThere has been interference on the job, but I saw last Wednesday there was no interference; they are going right along with it.

XQ255. Did you examine the carpenters' cards on that job? A. I did not examine the cards.

XQ 56. What kind of cards are they? A. I just happened to be there on Schmidt's job when he was employing those carpenters, happened to be passing by in the machine and stopped off and asked how it was getting along. He was employing the men.

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XQ257. How many did he hire at that time? A. Eighteen, I think.

XQ258. All at once? A. Oh, he has more than eighteen.

XQ259. Did he hire all the eighteen while you were there? A. I did not stay there all the while, but there were about two hundred men around there. I know there were quite some who wanted employment.

XQ260. How many cards did you see? A. Well, I saw probably half a dozen carpenters.

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XQ261. Union cards? A. Yes, sir.

XQ262. What color were they? A. I think blue.

XQ263. Blue cards? A. I think so.

XQ264. Might have been pink? A. I don't know, I don't remember, I think it was a blue card. It was in the shanty. I spoke to the watchman. I said, "Where is he?" He said, "He is inside, hiring carpenters."

XQ265. If these people could get all the carpenters they wanted on these jobs, why did you bring this action in Brooklyn? You brought an action in the Supreme Court in Brooklyn? A. Because there are a lot of these builders don't want to have

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all the trouble.

XQ266. What trouble do you mean? A. In the first place, the delegate comes to him and says, "Don't buy goods from a non-union house," or "Don't deal with Parshelsky," in many cases, "because he deals in unfair material, and if you do you will have some trouble on your job," and rather than stand for taking chances the builders won't give us a chance to give estimates, our old regular customers.

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By Mr. Maloney—

XQ267. The idea is, to make the men work whether they want to or not? Not to be troubled with the nonsense of these men, but to make them work whether they want to or not? A. The only thing we want to do is to stop the delegates from the carpenters from saying who they can buy from and who they can't buy from. They hand them one of these catalogues and tell them, "If you don't want to have trouble on the job you've got to buy from people whose names are in this catalogue, and if you don't you're going to have some 4634
trouble on this job." That's why we got the injunction.

XQ268. In other words, you can get all the union men you want to work on these jobs, but in order that you may not be annoyed by the union men quitting at any time you go to the court and the court fixes the matter up for you by giving you an injunction, and then they have to work whether they want to or not? A. No, nothing like that.

XQ269. That is the practical result, isn't it? A. No, I don't think so. If a man don't want to work you can't compel him to, but my experience has 4625
been that the majority of the carpenters will go to work if they are not stopped.

XQ270. If you got the injunction and then the carpenters refused to work, what about it? A. That ain't up to us, that's up to the owner. We don't guarantee to put them up to work.

Examination suspended to next hearing.

Adjourned to Friday, April 19, 1912, 2 P. M.

4636 Herman Kertscher, for Complainants—Re-direct.

PAINE vs. NEAL.

Hearing Thursday, April 18, 1912, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. BEATTIE.
MR. MAYER,
MR. WHITAKER.

HERMAN KERTSCHER recalled:

4637 *Re-direct Examination by Mr. Merritt—*

RDQ251. You testified concerning these books, Exhibits 1 to 6, that certain copies were sent out, or made and given to other people? A. Yes.

RDQ252. Do you remember certain copies being made for George Murray, of Greenwich? A. Murray of Greenwich, I don't know whether it is John or George.

RDQ253. And they were furnished Murray by your instructions? A. By my instructions.

RDQ254. And you understood, did you not, or believed, that Murray was connected with the Carpenters' Union? A. I did.

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RDQ255. Now you also testified that this man Friedenreich, at the time you were testifying here, was employed by the American Anti-Boycott Association? A. Yes.

RDQ256. You had no knowledge of that yourself, had you? A. Only what he said to the office, to the effect that he had a good job, was drawing his $100 a month and all that he had to do was to come down and collect it, he was in the squealing business.

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Mr. Merritt: I ask that that be stricken out, incompetent, irrelevant, immaterial.

RDQ257. Did he say this to you? A. No.

RDQ258. Then you are testifying about what someone else told you he said to them? A. Correct.

Mr. Merritt: Then I move that all the evidence in that connection be stricken out on the ground that it is incompetent, irrelevant and immaterial.

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Re-cross Examination by Mr. Beattie—

RXQ259. Who was it told you about Mr. Friedenreich? A. About what?

RXQ260. About getting $100 per week from the American Anti-Boycott Association for squealing? A. I guess it was one of the girls in the office.

RXQ261. What girl was it? A. I don't know, I did not pay much attention. I gues I could find out by inquiring at the office who it was; I don't know whether it was Mr. Koenig.

RXQ262. Have you seen Friedenreich since, 4641
about it? A. I have not seen him since he left our employ.

RXQ263. When did he leave you? When he began this other job? A. That was about a month or two before I testified last time—that is about eight months ago, I should judge.

RXQ264. Did he leave your employ voluntarily or was his leaving accelerated by you? A. I guess I would have to go into a pretty long explanation.

4642 Herman Kertscher, for Complainants—Re-cross.

Mr. Merritt: I object as incompetent, irrelevant and immaterial.

A. (continued): Friedenreich was foreman over the truck drivers. Monday morning I received a telephone at my house that none of the drivers were at work and none of the horses had been fed. The result is, we went out and hired strangers to feed the horses and contracted to have our trucking done, consequently there was no job for him or any of the other truck drivers.

4643 Mr. Merritt: I move that it be stricken out, incompetent, irrelevant and immaterial.

RXQ265. Are you and he on good terms?

Mr. Merritt: Same objection.

A. He is a little sore.

RXQ266. Did he tell you that he had been employed by this American Anti-Boycott Association? A. He did not. I have not spoken to him since he got orders not to come near the place.

By Mr. Merritt—

4644 RDQ267. Do you know where the gentleman is now? A. I do not.

By Mr. Beattie—

RXQ268. You don't know of your own knowledge that any of these books that you have referred to, Plaintiffs' Exhibits 1, 2, 3, 4, 5 and 6 for Identification, were sent to Murray? A. All I know is that I gave orders to have it done.

RXQ269. What did you give the orders for? What was the purpose of it? A. The object was so when we made terms and conditions with Mur-

ray, who had charge of that district where our factory is located, to show him what the true conditions were.

RXQ270. As to shipments of material to this city? A. To this city.

RXQ271. And it was necessary for you and he both to have that information in order to make an agreement for your employes? A. In regard to the conditions and the scale of wages.

RXQ272. And that was your object in sending these? A. Yes.

RXQ273. Do you know, as a matter of fact, 4646
whether he got them? A. I do not. Did he ever show me them after receiving them?

RXQ274. Yes. A. No.

RXQ275. Did you tell him yourself or give orders? A. Just gave orders.

By Mr. Mayer—

RXQ276. Do I understand, Mr. Kertscher, that you had these records kept in order that you might be enabled to make the best terms you could with the union when you made your individual agreement with the union? A. Certainly. 4647

RXQ277. I mean, the agrement of Kertscher with the union? A. Why, certainly.

RXQ278. Was that your sole object? A. That was the object. The object was, Humphrey kept us posted and we kept Palen posted and the Batavia posted what the terms and conditions were and they would report to us what terms and conditions they were getting.

RXQ279. Did each of these corporations or firms that you have mentioned in your last answer make an individual agreement with the union? A. In regard to their own plant?

RXQ280. Yes. A. They dld.

RXQ281. And was the purpose of getting this information together to enable each of them to make the best agreement they could with the knowledge of the agreements with others by reason of these reports are they gave to you, for their own benefit? A. Yes, that and together with the information we got in tracing some of these cars.

RXQ282. But all that information was obtained for the purposeof enabling each of you to make the best terms you could with the union in making
4649 your annual agreement? A. That is it.

RXQ283. I mean, each of your annual separate agreements with the union? A. That is it.

RXQ284. And there was not in any sense any combination or conspiracy on anybody's part to detail this information for any purpose of any character?

Mr. Merritt: Objected to as calling for a conclusion.

A. I know nothing of that.

RXQ285. There was not any such purpose in
4650 your mind, was there? A. None in my mind. The only thing that we ever found out is that there was one concern that was unionized up the State that was getting better terms than we were.

RXQ286. And you used that in getting your terms the next year, didn't you? A. We did.

By Mr. Beattie—

RXQ287. Had this arrangement anything to do with any of the complainants or their materials? A. Who is that.

RXQ286. The different plaintiffs in this case?

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A. I don't know who they are. I know the Paine Lumber Company. Who are the others?

RXQ289. Gould Manufacturing Company? A. Don't know them.

RXQ290. K. McMillen Company? A. Don't know them.

RXQ291. Morgan Company? A. Know them by name.

RXQ292. Lothman Cypress Company? A. Don't know them.

RXQ293. Curtis & Yale Company? A. Don't know them.

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RXQ294. W. D. Crooks & Sons? A. Don't know them.

RXQ295. Bristol Door & Lumber Company? A. Don't know them.

RXQ296. Then this arrangement or anything you did in that connection had nothing whatever to do with these firms whose names have just been mentioned? A. Absolutely nothing.

Mr. Beattie: I ask that the evidence of this witness be stricken out, incompetent, irrelevant and immaterial and having nothing to do with the issues.

By Mr Mayer—

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RXQ297. What you did, and what your other fellows did, that you have mentioned in your testimony here to-day, was not the result of any action on the part of the Manufacturing Woodworkers' Association or the Master Carpenters? A. It was for our own benefit, to know what our position was when we made new terms. That was the main object of it, and to know what the condition was with our competitors.

4654 Herman Kertscher, for Complainants—Re-direct.

By Mr. Merritt—

RDX298. You say the only result was that you found out a concern up State was getting better terms. How did you find that out, through any of this information contained in Exhibits 1 to 6? A. You would have to get that from Mr. Humphrey. He found it out; from what source I don't know.

RDQ299. How would the information which you obtained in this way through the employment of this man Friedenreich at all disclose the terms
4655 and conditions which some concern up the State were getting? A. Well, the probabilities are that some of their goods were coming in and they were reported and Mr. Humphrey had notice of it, that he would want to know what their conditions were; when we made our agreement it was strictly understood that no concern was to get any better terms or conditions than we were; now these people did get better terms and conditions.

By Mr. Mayer—

RXQ300. When you say "our" agreement, you
4656 mean your company? A. Kertscher & Company.

By Mr. Merritt—

RDQ301. Included in this information were the number of the cars coming in at times, was there not? A. To whom?

RDQ302. This information which you secured through tracing these cars, you obtained the number of the cars, didn't you? A .Yes, sir.

RDQ303. And you not only obtained the information that the cars were coming into the city, but

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information as to where the particular material was ultimately delivered, didn't you? A. We did.

RDQ304. That is, then, in the tracing of this material, you traced it from the cars—— A. As near as we could.

RDQ305. Wherever possible you traced the material from the cars where it was delivered to the building where it was delivered? A. Yes.

RDQ306. And obtained that information? A. Yes, wherever it was possible.

RDQ307. Of course, there were many occasions where it was not possible? A. I don't think we got one out of a dozen, and I don't think we got one out of a hundred of the cars that came in.

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RDQ308. That is speculation on your part? A. Speculation, that's it.

By Mr. Beattie—

RXQ309. You run a cabinet making factory, don't you? A. Yes.

RXQ310. You have heard of Paine? A. Yes, sir.

RXQ311. You are not in competition with Paine? A. I don't know we ever competed where Paine estimated.

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RXQ312. These other mills that have been spoken about are mills that make doors, windows and trim generally, I think, out at Oshkosh mostly, and the Bristol Door & Lumber Company at Tennessee. Do you know whether you are in competition or have ever been in competition with any of these concerns? A. My attention has never been called to them by any of our outside men.

Subscribed and sworn to before me)
this day of , 1912)

ISAAC PARSHELSKY, examination resumed.

By Mr. Beattie—

XQ271. Do you produce that agreement with the Paine Company, Mr. Parshelsky, and the Gould Manufacturing Company? A. No, I forgot all about it. I will tell you why I did not bring it: I understood the hearing was for to-morrow and I told my bookkeeper to remind me about taking it along Friday morning. That is why I did not
4661 bring it along.

By Mr. Merritt—

RDQ272. You say you came down to the office of the American Anti-Boycott Association the time of the Crystal trouble? A. Yes.

RDQ273. How did you happen to come there? A. When we had al lthe trouble down there I telegraphed to the factory.

RDQ274. To what factory? A. Out in Oshkosh.

RDQ275. The factory from which you were furnishing the material? A. And he notified me to come down to see the American Anti-Boycott As-
4662 sociation, who was their attorneys; that is why I came down.

RDQ276. How did you come to purchase 75 per cent. of your stuff in non-union material instead of union material?

Mr. Beattie: Objected to ,incompetent.

Mr. Mayer: Incompetent, irrelevant and material.

A. Because I can buy it there much cheaper and more advantageously.

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RDQ277. You mean that the price of the union materials are higher? A. Yes, sir.

RDQ278. Do you have any more advantageous terms which lead you to purchase largely non-union material?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial, calling for a conclusion on the part of the witness, not stating the facts.

And if so, what are they?

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A. In the first place all the goods was bought and we discount all the bills, no matter if they are union goods or if they are not union goods, in the first place. In the second place, we have to get them because we can get the proper kind of material at the proper prices and to be shipped on time. That is the reason we buy from these people.

By Mr. Mayer—

RXQ279. Did you complain that you did not get your stuff on time and that is why you went to Morgan? A. A. I did not complain that I did not get them on time. I went from Morgan to Paine.

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RXQ280. Did you say that you went from Morgan to Paine because Paine was not delivering stuff on time? A. That is right.

RXQ281. Then you were having trouble getting your stuff on time from a non-union firm? A. There are certain times in the year when one factory has more to do than the other, and we change around, that is all.

4666 Isaac Parshelsky, for Complainants—Re-direct.

By Mr. Merritt—

RDX282. Now, as I understand it, you have started a suit in Brooklyn in which you have secured an ex parte injunction? A. Yes, sir.

RDQ283. Why did you start this suit?

Mr. Mayer: Objected to, incompetent, irrelevant, immaterial.

Mr. Beattie: Same objection.

A. The reason we started suit was because the
4667 walking delegates were interfering with us all over in selling our material.

Mr. Mayer: Imove to strike out the answer as a conclusion on the part of the witness.

RDQ284. I understand you to testify that there was no difficulty in obtaining union carpenters to install your material under the conditions which existed prior to this suit? A. Well, the difficulty is that after the carpenters start to work on the job the next day they are called off by one of the walking delegates or the representatives.

4668 Mr. Beattie: I ask that be stricken out as incompetent, irrelevant and immaterial.

RDQ285. I think you testified under Mr. Beattie's examination that there was no difficulty in getting sufficient union carpenters to handle your material. What did you mean by that? A. I believe that we could get the carpenters to work if they were not interfered with, that is what I meant by that.

Mr. Beattie: I ask that that be stricken out on the same ground.

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RDQ286. Can you testify whether or not there is any difficulty in getting the carpenters under the conditions which existed just prior to the time you commenced your suit? A. The difficulty was on special jobs with the union men; they began to go ahead with the job and the next day or the day after they would go off the job, being told by the walking delegates that if they worked on the job they would either be fined or thrown out of the union and the men got scared and left the different jobs.

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Mr. Mayer: I move to strike that answer out as incompetent, irrelevant, immaterial, hearsay, indefinite.

Mr. Beatie: Same motion.

RDQ287. You stated something concerning non-union carpenters in Brooklyn and I would ask you whether or not there are abundant skilled non-union carpenters in Brooklyn which can be secured to install your stuff? A. I hardly think so, I think the majority of all the good carpenters belong to the union. There are some, but they don't amount to much.

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RDQ288. You mean they are not good carpenters? A. No, not first class carpenters.

RDQ289. There are a considerable number of them, are there not? A. No, there are not so very many.

RDQ290. Are building conditions in Brooklyn at present rather slack? A. Well, they are in some parts.

RDQ291. Do you know whether or not, from your knowledge of the conditions, there are a large

number of carpenters out of work? A. Yes, you can get qute some carpenters just now if you want them.

RDQ292. Do you mean that you can obtain them despite the order of the delegates? A. No, I could not get any of them; you might be able to get a few carpenters and then if the delegate goes around and talks to them they go off the job.

Mr. Mayer: I ask that that be stricken out, incompetent, irrelevant, immaterial, indefi-
4673 nite, speculative, hearsay.

RDQ293. Were you at the Schmidt job after he advertised for carpenters? A. I was there, yes, the next day I was on the Schmidt job.

RDQ294. Did you see many carpenters hanging around there? A. Oh, yes, there were quite some.

RDQ295. How many would you say? A. Oh, probably about seventy-five, probably more.

RDQ296. Did they go to work? A. Well, yes, some of them went to work, quite some.

RDQ297. Did you see any of the representatives of the Carpenters' Union around then? A. Yes.

4674 RDQ298. Who? A. Dhuy and Wolfinger.

RDQ299. Did you have any talk with any of these carperters as to whether they would or would not go to work? A. I did talk with them.

RDQ300. At this time, when you saw about seventy-five around? A. No, I did not talk to them that day about going to work, but I did talk to them after that.

RDQ301. On the Schmidt job? A. On the Schmidt job.

RDQ302. And whom did you talk with? A. I think five of them.

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RDQ303. Do you remember their names? A. I think I have their names, not here, but I think I have their names.

RDQ304. You could bring their names, could you? A. I think so, yes.

Mr. Merritt: See if you can, next time.

RDQ305. Do you understand that the hardwood doors you are furnishing on all these contracts which you have testified about come from the Paine Lumber Company? A. All of them, yes.

RDQ306. Can you state with certainty where you would have procured the doors for these various customers whom you say refuse to give you business on account of these various troubles?

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Mr. Beattie: Objected to, incompetent, irrelevant, immaterial.

A. I don't know where I could have bought them.

RDQ307. Do you know where you would have procured the doors for these customers if they had placed the contract with you? A. Do you mean outside of the Paine Lumber Company?

RDQ308. No. Would it have been the Paine Lumber Company that you would have purchased them from?

4677

Mr. Mayer: I object to the question on the ground that it is incompetent, irrelevant immaterial, speculative, calling for a conclusion on the part of the witness.

A. Yes.

RDQ309. Where did the doors come from which

were furnished on the Keppel job? A. From the Paine Lumber Company.

RDQ310. Where did the doors come from that were furnished on the Abrahamson job? A. The Paine Lumber Company.

RDQ311. Where did the doors come from that were furnished on the Malafsky & Rappaport job? A. From the Paine Lumber Company.

RDQ312. You stated that certain of these defendants asked you to join the association of men who purchased union stuff only? A. Yes.

4678 RDQ313. Were you referring to the union manufacturers? A. Yes, they told me if I did not want any trouble to deal in nothing else but union material.

RDQ314. Did they show you a list? A. Oh, yes, they gave me one of them small catalogues.

RDQ315. A list of manufacturers? A. Yes, sir.

RDQ316. What was it, a small printed list? A. Yes, a small printed list, a pink one, I think they are, covered with pink.

RDQ317. And did they state that these men only dealt in union material? A. Yes.

RDQ318. Most of them were manufacturers,
4679 were they not? A. Yes, most of them, yes; I think most of them were manufacturers.

By Mr. Beattie—

RXQ319. Did these men that showed you this list tell you that the carpenters who worked in those materials were their own fellow members in the Brotherhood of Carpenters? A. No, they did not.

RXQ320. You understood that, didn't you, that the Brotherhood men were the only men in the union mills? A. No, I did not.

RXQ321. Did you hear any of the carpenters informed by any of the bosses on any of these jobs where you were furnishing this non-union material that the material was non-union? Did the bosses tell the carpenters when they were hiring them that this was non-union amterial? A. No, they did not.

RXQ322. But you heard these delegates of the carpenters tell the men that the material was non-union in some cases, didn't you? A. Yes, I heard the delegates tell the carpenters.

RXQ323. Have you hired any carpenters yourself during the last year, union or non-union? A. No, sir, I did not. 4682

RXQ324. Did you ever hire a carpenter? A. No, sir.

RXQ325. You don't know directly yourself whether it is hard to hire union or non-union carpenters, except from what you have learned on these different jobs? A. Yes, that is where I got the knowledge from.

RXQ326. And you don't know anything about the skill of union or non-union carpenters, except what you have heard? A. No, I do not.

Examination suspended to Friday, April 26, 1912, 2 P. M 4683

IT IS STIPULATED that as to all of the witnesses produced by the ocmplainants or the defendants in this case, that the signatures of each witness to his testimony IS WAIVED, unless any of the parties should insist that the testimony of a particular witness be signed by that witness.

PAINE vs. NEAL.

Hearing Friday, April 26, 1912, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. BEATTIE.
MR. MAHONEY.
MR. MAYER.
MR. WHITTAKER.

4685 JOHN WOLFINGER, a witness called on behalf of complainant, being duly sworn, testified as follows:

Direct Examination by Mr. Merritt—

Q1. What is your full name? John Wolfinger.

Q2. Where do you live? A. 366 Central Avenue.

Q3. Brooklyn? A. Brooklyn.

Q4. And you have some official connection with the United Brotherhood of Carpenters, haven't you? A. Yes.

Q5. What is it? A. Organizer.

4686 Q6. In that capacity you are paid by the head office at Indianapolis? A. Yes.

Q7. How long have you held that position? A. Two years next May.

Q8. The headquarters of the United Brotherhood of Carpenters is at Indianaoplis, isn't it? A. The general organization.

Q9. And that is an unincorporated association, isn't it? A. Yes.

Q10. Can you tell us about how many local unions it has connected with it? A. Well, now, I don't know that; I could not give it exactly.

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Q11. Isn't it approximately 1,900? A. Somewhere in that neighborhood.

Q12. And its membership is approximately 200,000? A. It might be more.

Q13. Now the Joint District Council of New York and vicinity is made up of the local unions in New York and vicinity, isn't it? A. Yes.

Q14. And about how many local unions in New York and vicinity? A. Somewhere in the neighborhood of 70, I guess; I am not sure of it, though.

Q15. But that is it approximately? A. About.

Q16. And those local unions elect the representatives which make up the Joint District Council? 4688
A. Yes.

Q17. The headquarters of the Joint District Council are at 142 East 59th tSreet? A. East 59th Street.

Q18. In Manhattan? A. Yes.

Q19. Now the Joint District Council has some sort of headquarters in Brooklyn, has it not? A. No, not the Joint District Council.

Q20. Well, explain what the headquarters in Brooklyn are? A. It is the Borough Committee; it is part and parcel of the Joint District Council.

Q21. Is the Borough Committee made up of the 4689
unions in Brooklyn? A. Yes.

Q22. Where are its headquarters? A. 255 Atlantic Avenue

Q23. In Brooklyn? A. Yes.

Q24. As far as you know, Mr. Wolfinger, the constitution of the Joint District Council is observed, isn't it?

Mr. Beattie: I object to that as not within the knowledge of the witness; it would be impossible for the witness to answer the ques-

4690 John Wolfinger, for Complainants—Direct.

tion; incompetent, irrelevant and immaterial besides.

A. You will have to put it plainer than that; I want to know what you mean by that.

Q25. Do you recognize that Complainants' Exhibit 38 as the by-laws of the Joint Council of New York and vicinity? A. That is an old one, I guess. That is an old by-law.

Q26. When was it changed? A. I don't know; there have been amendments to it, I believe, at
4691 some time.

Q27. Was that the one which was in existence at the time this suit was commenced? A. I could not tell you that.

Q28. You notice that there are certain amendments in there called July, 1910? A. Well, that is probably it, yes.

(Amendments marked Complainants' Exhibit 38-a.)

Q29. Wouldn't these by-laws marked Exhibit 38 and these amendments marked 38-a constitute the by-laws that were in existence at the time this suit
4692 was commenced in the spring of 1911? A. I could not say.

Q30. You don't know of any other amendments that have been made besides those? A. Amendments come in time and time again and I don't know whether they're adopted or not, because I'm not here half the time, so I could not tell you what was done.

Q31. You would not know a copy of the by-laws of the Joint District Council, then, if you saw them? A. Well, recognize the name on it, but that is about as far as I can go with it.

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Q32. You are not familiar with their provisions? A. Not now, no, there was a time when I was, but not now.

Q33. When were you? A. Many years ago.

Q34. How many years ago? A. I have not been in the council these two or three years now; that I have not taken any active part.

Q35. Well, those by-laws you notice are dated 1909?

Q36. Do you file reports as an organizer? A. Of anything important.

Q37. Written reports? A. If it is important I 4694
do, if not I don't.

Q38. Where do you make your reports? A. General office, Indianapolis.

Mr. Beattie: I will concede on the record that these are the by-laws now and at the time of the beginning of this action.

Q39. You send your reports to Indianapolis? A. To Indianapolis.

Q40. Do you report to any of the officers or offices here? A. No, I don't have to.

Q41. Well, do you? A. No, not unless I want 4695
their sanction on anything, that is about the only time.

Q42. Well, as a matter of practice, do you seek their sanction frequently in things you are doing in this locality? A. Only in cases where I need it. I explain what I want and then it is up to them whether they grant it or not.

Q43. Do you do that often? A. Not very often.

Q44. Have you ever held any office in the Joint District Council of New York? A. No, I have never been an officer.

Q45. Of any kind? A. Never been an officer.

Q46. Ever been an officer of any of its committees? A. I have been a comimtteeman, but not an officer.

Q47. What committees have you been on? A. The Grievance Comimttee.

Q48. And other? A. No, that is all.

Q49. You have been a member of the Joint District Council? A. I have been a member.

Q50. When was that? A. That was some time ago.

4697 Q51. How long ago? A. Well, I was one of its founders.

Q52. Well, when were you last a member? A. I guess two years ago.

Q53. Some time in 1910? A. 1909, I think.

Q54. You don't think you were in 1910? A. Well, I have not taken active part in the District Council since I have had this position.

Q55. Well, how long have you had this position? A. I have told you, it will be two years in May.

Q56. And at no time have you held any office in the Joint District Council or any of its committees? A. Not during that time, no.

4698 Q57. Ever been secretary of any of its committees? A. Years ago.

Q58. Well, what committee were you secretary of? A. Grievance Committee.

Q59. Is that the only comittee? A. That is all.

Q. Ever been connected with any of the Strike Committees? A. Well, you might call it a Strike Committee; that is what we call a Grievance Committee.

Q61. How is this committee to which you refer described in your by-laws? A. They call it a

Strike Committee, but we call it a Grievance Committee; if any man has a grievance they come into the Grievance Committee.

Q62. Then the Grievance Committee to which you refer is what is described as a Strike Committee in the by laws? A. Yes.

Q63. You have been secretary of that committee, then? A. Yes.

Q64. When were you secretary of it? A. Three or four years ago.

Q65. Three or four years ago; that is, in 1908 or 1909? A. Well, I don't think it was in 1909 4700 because—1908, I think it was.

Q66. And you have not held that office since 1908? A. No.

Q67. Who was your successor in office? A. I really don't know who took my place then.

Q68. Whose place did you take? A. Hanson's, I think it was.

Q69. Hansen? A. I think that is the way he spells his name; I am not positive, but his name was Hansen, I think that is the name.

Q70. And this is the Strike Committee of the Jont District Council—not of the Brooklyn Borough? A. No. 4701

Q71. Where were these meetings held? A. 59th Street.

Q72. How long were you secretary? A. Six months, I think.

Q73. Did you keep minutes? A. No.

Q74. You kept no minutes whatsoever? A. No.

Q75. You have never kept any minutes of any kind concerning any of the transactions of this committee? A. Make notes, and that is about all, when they were settled, why, the notes would be thrown away.

Q76. How were these notes made, on loose paper or in a book? A. Loose paper.

Q77. And you kept no notes in a book of any kind? A. No.

Q78. And you have at no time kept any notes in any book concerning any of the transactions of that committee?

Mr. Beattie: Objected to as incompetent, irrelevant and immaterial, and antedating the matters in controversy.

4703 A. No.

Q79. And you have at no time held any other office as secretary since that time that you held this office on this Strike Committee? A. No.

Q80. And you have at no time kept any minutes in any book for any other committee? A. No, I have never been on any committee.

Q81. And as I understand it, you did take notes of the minutes of the meeting of this Strike Committee on loose sheets and then you destroyed those sheets? A. Certainly.

Q82. You destroyed them yourself? A. Yes, sir.

4704 Q83. What sort of paper did you take them on? A. This common yellow paper.

Q85. On yellow paper? A. Yes.

Q85. Large sheets? A. Yes, large sheets.

Q86. About the size of this legal cap? A. Yes, that is about the size.

Q87. And what did you do with them right after you took them?

Mr. Beattie: Same objection.

4705

A. When the case was settled we destroyed them; we had no further use for them.

Q88. You just kept them as memoranda pending the time when the case should be settled? A. That is right.

Q89. Perhaps would keep them for a few weeks or something of that kind, to keep a record of the matter until it was closed? A. Until it was closed.

Q90. And after that time you destroyed them yourself? A Exactly.

Q91. And these minutes kept on these loose sheets were the only minutes you ever kept? A. That is right.

4706

Mr. Beattie: He only said he made notes, not minutes.

A. Just notes of what transpired, no minutes kept.

Q92. And those writings that you made on these loose sheets were the only records you have ever made yourself of these controversies?

Mr. Maloney: He said they only made loose notes of the proceedings as they went on.

4707

Q93. You did not put these in the handsof any other person, but destroyed them yourself? A. Destroyed them myself.

Q94. Can you give me the names of any of the other secretaries of this Strike Committee? A. Of the Strike Committee?

Q95. This one that you were secretary of for a while? A. Could I give you the names of the Strike Committee that was there at the time Iwas?

Q96. No, of any other secretaries, who were sec-

retary before you were there, or after you were there? A. I told you the one before, but I don't know who took my place.

Q97. Can you give me the names of any of those who held the office subsequent to the time you did, or prior to the time you did? A. I don't know whether that would be fair if I would give any names.

Q98. I don't see anything unfair about it? A. What do you think about that? (Referring to Mr. Maloney.) Am I suposed to give these men's
4709 names?

Mr. Maloney: Certainly, state them.

A. I know one, Collins, he is there at the present time.

Q99. Collins? A. Yes, sir, Collins.

Q110. You have never filed any report with either the Borough Committee in Brooklyn or the Joint District Council here in New York? A. No, sir.

Q101. Have you ever been a business agent? A. Yes.

Q102. When? A. Commencing the year of
4710 1908.

Q103. How long did you continue in that office? A. Six months.

Q104. That is the only period when you have been a business agent? A. Yes, sir.

Q1805. At that time did you file any written reports? A. We filed a report at that time, yes; we sent a report to the District Council.

Q106. Was that the custom of the business agents at that time? A. That was at that time.

Q107. Who did you send them to? A. Featherston.

Q108. He was secretary and treasurer at that time? A. Yes, sir.

Q109. Neal had not come into office then? A. No.

Q110. Neal is the secretary and treasurer of the Joint District Council at the present time? A. Yes.

Q111. And has held that office for a cople of years anyway, hasn't he? A. About two years, I guess.

4718

Q12. Who is the present secretary of the Brooklyn Strike Committee? A. I know him well, but I can't think of his name now.

Q113. Would he be a business agent? A. No. They know we where I would not know them by name.

Q114. Now you called on the Albro J. Newton Company some time in August, 1910, did you not? A. Some time in that neighborhood.

Q115. Who was with you? A. Business Agent Heinen.

Q116. That is Matthew C. Heinen? A. Yes.

Q117. Who else? A. I think that was all. 4719

Q118. Mr. Cook or Mr. Rice? A. No, sir.

Q119. Just the two of you? A. Yes.

Q120. Whom did you see, Mr. Albro J. Newton? A. Mr. Newton himself.

Q121. That is, the senior Mr. Newton? A. The old gentleman, yes.

Q112. Where was it you called on them? A. At their office.

Q123. At that time either you or Mr. Heinen

4714 John Wolfinger, for Complainants—Direct.

presented an agreement to Mr. Newton which you requested the company to make with the Brotherhood, did you not? A. Yes.

Q124. You are a defendant in the Newton case, are you not? A. Yes.

Q125. Have you ever seen the pleadings in these cases? A. No, I did not read them.

Q126. Didn't you see the answer that was filed in your behalf? A. No, I did not read it.

Q127. I will show you an agreement attached to the Newton complaint, and ask you if you think
4715 that is not the same, or a similar agreement, as that presented? A. (examines paper.) That is one of the agreements, yes.

Q128. Well, there was only one agreement presented to Newton? A. Yes one agreement presented to him; that is, on the mill end.

Q129. And that is the agreement which was presented to him, or one of that character? A. One similar to that.

Mr. Merritt: I will ask to have that marked in evidence Complainants' Exhibit 39.

Mr. Beattie: Objected to, incompetent, ir-
4716 relevant and immaterial.

Q130. Mr. Newton ultimately refused to enter into that agreement? A. He did not, he told us he would consider it.

Q131. I mean ultimately he did, at a later time?

A. Yes, at a third meeting we had, he then refused to sign it.

No cross-examination.

Subscribed and sworn to before me this day of , 1912.

Plaintiffs' Exhibit 39. 4717

Mr. Meritt: I want to have Mr. Wolfinger sign his testimony before the Commissioner at some time.

Mr. Merritt: I want to offer in evidence the constitution and by-laws of the Building Trades Employers' Asosciation which is attached to the answer, as Complainants' Exhibit 40.

The complainants' case is closed, except that the complainants' counsel is to produce Parshelsky 4718
for further cross-examination.

Hearing adjourned for the purpose of further cross-examination of Parshelsky, to Thursday, May 2, 1912, 2 P. M.

PAINE vs. NEAL.

Paintiffs' Exhibit 39, April 26, 1912.

Articles of Agreement entered on the..... day of.....1910. 4719

Article I.

The intent of this Agreement is to lay foundations for peace in the Mill work Industry, and the bringing about of uniformity as to hours, wages and general conditions, and to provide for the settlement of any and all grievances that may arise between the....., parties of the first part, engaged in the manufacturing of Doors, Sash, Window Frames, Mouldings, Interior

4726 Plaintiffs' Exhibit 39.

Trim, etc., and the International Union United Brotherhood of Carpenters and Joiners of America, General Offices, Indianapolis, Indiana, and its subordinate Union known as Joint District Council of New York, parties of the second part.

Article II.

The party of the first part ....., agree to confine themselves strictly to the manufacturing of Mill Work material as herein specified, and agree further that they shall not engage
4727 in installing or erecting material in any buildings, or sublet the same to be erected or installed in any building.

And the party of the second part agree that none of their members will erect or install non-union or prison-made material, it being understood that Window Sash 1⅜" thick and under, and Exterior Window Blinds, are not covered under this Agreement, except that these shall not be prison made.

Article III.

4728 The parties of the first part hereby agree to hire none but members of parties of the second part in good standing of the United Brotherhood of Carpenters and Joiners of America who carry working cards of the subordinate union District Council, and the parties of the second part agree to furnish to the parties of the first part union men and if such men cannot be furnished by the parties of the second part, then only such men that are willing to join this organization shall be hired by the parties of the first part.

Plaintiffs' Exhibit 39. 4729

Article IV.

The party of the second part agres for its members to erect all material handled by the parties of the first part manufactured in shops under agreement with party of the second part. And the party of the second part further agrees that none of the members of their Organization shall erect any material known in the Trade as Mill Work specified in this Agreement which has ben made in prisons or non-union factories, except as specified in this Agreement.

4730

Article V.

The Business representative of party of second part shall be allowed access to shop or mill by making application to office of party of first part.

Article VI.

.... hours shall constitute a week's work. No overtime shall be allowed under the terms of this Agreement only to save life and property, then only at the rate of double time, double time for Sundays and all legal holidays. 4731
No work shall be allowed on Labor Day under any circumstances.

Article VII.

It is further agreed that no work shall be performed on Saturday afternoon, bothparties to this agreement recognizing Saturday afternoon and the following as legal holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Decoration Day, Independence Day, Labor Day,

4726 Plaintiffs' Exhibit 39.

Election Day Thanksgiving Day and Christmas Day.

It is also agreed by parties of the first part ..... that hours and wages as set forth in Agreement with the Manufacturing Wood Workers Association Article four (4), any change or alteration during the life of this Agreement shall be recognized by both parties hereto.

Article VIII.

4727 The minimum rate of wages to all Bench and Machine hands shall be ..... per week, and it is further agreed that the better grade of mechanics shall receive a higher rate of wages as agreed upon between employer and employes.

Article IX.

No mechanic receiving a higher scale of wages than is herein procided shall suffer any reduction by reason of this Agreement, or during the life of this agreement.

Article X.

4728 The party of the first part may employ one (1) apprentice for every eight (8) machine hands, and one (1) apprentice for every eight (8) bench men. Each apprentice to be under twenty-one years of age and shall serve a term of four years.

Wages for aprpentices:

First year	$6.00	per	week
Second year	8.00	"	"
Third year	10.00	"	"
Fourth year	12.00	"	"

Plaintiffs' Exhibit 39.

4729

Apprentices upon becoming Journeymen shall receive the minimum wages as herein provided.

Article XI

Laborers or porters shall not be permitted to run or feed machinery or do any work that requires the use of Carpenters' tools.

Article XII.

This Agreement expires on Jan. 1st, 1913, and in view of the fact that existing contracts have 4730
been entered into by the party of the first part based upon the present mode of operation, it is hereby agreed by the party of the second part that ..... days shall elapse from the time of signing of this contract to give the party of the first part time to fulfill contracts now on hand before the working conditions called for in this Agreement shall take effect.

Article XIII.

In the event of any disputes arising betwen the parties to this Agreement, each party shall appoint a Committee of three, with full power to act. 4731
All questions in dispute coming before this Board to be settled by a majority vote of the members present and voting, and in the event of a tie vote, by the decision of an Umpire, who shall be chosen by the Joint Committee, and whose decision shall be binding upon both parties.

Article XIV.

It is further agreed by parties to this Agreement that at least sixty days prior to the expira-

4732 Plaintiffs' Exhibit 39.

tion of this Agreement, both parties shall meet for the purpose of considering the following conditions:

First. Are conditions in the Trade such as will warrant a reduction of hours to forty-four (44) hours per week?

Second. What shall be the minimum rate of wages that shall prevail under the new Agreement? It being understod that the burden of proof shall be upon the United Brotherhood of Carpenters to show that they control the trade to
4733 a sufficient extent to warrant any reduction of hours or increase of wages.

This Agreement does not apply to public or municipal work, except on condition that the State laws are complied with.

Signed party of second part:

.....
.....
.....
.....

4734 Signed party of first part:

.....
.....
.....
.....

Isaac Parshelsky, for Complainants—Re-cross. 4735

PAINE vs. NEAL.

Hearing May 2, 1912, 2 P. M.

PRESENT:

COMMISSIONER SHIELDS.
MR. MERRITT.
MR. MALONEY.
MR. BEATTIE.
MR. MAYER.
MR. WHITTAKER.

ISAAC PARSHELSKY called for further cross-examination: 4736

By Mr. Beattie—

RXQ327. Did you bring those contracts? A. (producing papers) This is the old and this is the new.

RXQ328. Is that the only contract you have? A. That is all.

RXQ329. Have you got any paper or contract under which you agree to handle only Paine doors? A. We have not any written contract, only a mutual understanding.

RXQ330. It is not in writing? A. No, sir. 4737

RXQ331. And by that understanding you were to handle Paine doors until October 1, 1912? A. Except the orders which we had, which had been placed with others, before we had this mutual understanding.

RXQ332. And when did you have this mutual understanding—the date? A. When Mr. Paine was in New York at the time this contract was signed, April, 1912.

RXQ333. April 1, 1912? A. Yes, the date that contract was signed.

RXQ334. That is, under an oral agreement you are to handle nothing but Paine doors from April 1st last until October 1st next, except what you have previously contracted for? A. Yes.

RXQ335. Previous to April 1st? A. Yes.

RXQ336. That is, you have to buy any doors which Paine makes, from Paine? A. Yes.

RXQ337. But there are certain kinds of soft wood doors which Paine does not make that you
4739 can buy elsewhere? A. Yes, and also some hard-wood doors that he does not manufacture we can buy, the same as the Hazel doors that he does not handle, that we can buy.

RXQ338. But any doors that Paine makes you are to buy from Paine? A. Yes.

RXQ339. Does not your agreement with Paine refer to anything but doors? A. That is all.

RXQ340. Don't you buy anything else from him? A. Yes, but we are not obligated to buy anything else, only doors.

RXQ341. Well, these soft wood doors you buy
4740 from where? A. We buy them from half a dozen different concerns.

RXQ342. All non-union concerns? A. All non-union, yes.

RXQ343. What contract have you got with the Gould Manufacturing Company? A. Only on the sash. We did not have a written contract. We call it a mutual understanding all through some correspondence.

RXQ344. When was this understanding with the Gould Manufacturing Company reached? A.

 4741

When I was out there in last September—for one year.

RXQ345. The contract with them is for one year? A. Yes.

RXQ346. And it obligates you to buy all sash which the Gould Company makes, from the Gould Company, is that right? A. Yes.

RXQ347. That is sash of 1⅜ as well as of greater thickness? A. Yes, sir.

By Mr. Maloney—

RXQ348. Mr. Parshelsky, you brought an action against some of the members of the Joint District Council, did you not? A. Yes, I brought one. 4742

RXQ349. And was it with reference to contracts you had to furnish material in Brooklyn? A. Yes.

RXQ350. Not in New York, or Manhattan? A. Well, no, it was not in New York.

RXQ351. In how many cases do you claim that you were interfered with in Brooklyn? A. Well, up to probably about—I cannot recall—there were some, probably not a whole lot, but quite some.

RXQ352. Name the contractors who were buying your material? A. I cannot name them off-hand, but they are all in the papers. 4743

By Mr. Beattie—

RXQ353. I mean to ask you, Mr. Parshelsky, what advantage do you gain by that contract with the Paine Company? A. Because by making the contract and buying the output for six months we buy it so much lower than we can buy it any place else.

RXQ354. That is, you can buy these Paine doors

for less than any other customer who only gives an occasional order? A. Yes, sir.

RXQ355. Has Paine any right to sell doors to anybody else in Brooklyn except you? A. Oh, yes.

RXQ356. He is not limited in that way? A. No, sir.

RXQ357. What per cent. of advantage do you gain by that contract? A. I think that making this contract we save from 10% to 15% below what everybody else can buy from Paine.

RXQ357. Well, now, how about the Gould Com-
4745 pany on their sash? A. I know for a positive fact that we are buying much lower from Gould than anybody else is buying on sash.

RXQ358. What per cent. of advantage do you consider your Gould contract to be worth over any other customer? A. About the same thing, 10% or 15%.

By Mr. Maloney—

RXQ359. Can you remember the names of the contractors to whom you sold material where you claim you have been interfered with? A. Well,
4746 probably I could not take them all, I could remember some of them.

RXQ360. Well, name some of them? A. On the Schmidt job, Joseph & Goldberg job, Norek job, Rappaport job, the Abrahamson job, the Weinberg job. Where they have interfered, or tried to?

RXQ361. Either? A. On the Safe Construction Company, on the Kellner and on the Tapol job, on the Aaron job; that is about all I can remember, but I know there are quite some more which I can't remember just now.

4747

RXQ362. Were these jobs, where there were buildings in course of erection? A. Yes, sir.

RXQ363. And the men employed on the jobs were union men? A. Well, that I don't know, I suppose they were union men.

RXQ364. They must have been union men or there could not have been any interference, could there? A. I suppose so.

RXQ365. Are you familiar with union conditions? A. No, I don't know all the conditions, no, I know some of them.

4748

RXQ366. You know pretty well when the men will and when they will not work, don't you, when they are members of unions? A. No, that I don't know.

RXQ367. How long have you been in business in this business? A. About 1905.

RXQ368. About seven years? A. Yes, sir.

RXQ369. And has this interference of which you complain taken place only in the last year? A. Yes, sir.

4749

RXQ370. When it first took place, did you make an investigation to find out what was the cause or alleged cause of the interference? A. Well, when it first took place, I found out that the reason they would not let the carpenters handle the material was because they claimed our stuff was not coming from the union shops.

RXQ371. How long ago was it you made that investigation and found that out? A. Well, that was only since I have the first job in Brooklyn we had trouble, that was on the Weinberg job.

RXQ372. How long ago? A. I think it was some time in December or in January.

RXQ373. What year? A. This year, January, or December, 1911.

RXQ374. Now you never had any interference or attempted interference with your business prior to that time? A. Yes, sir.

RXQ375. You mean that you did have? A. No, sir; we did not have any interference until this time.

RXQ376. And that was in Brooklyn? A. Yes, sir.

RXQ377. It has been said that you did have
4751 some interference elsewhere than in Brooklyn? A. Yes, sir.

RXQ378. Where was that? A. Over in New York, Manhattan.

RXQ379. When? A. That was, I think, in April. Or in May, along that time.

RXQ380. Of what year? A. A year ago, 1911.

RXQ381. Was that before this Brooklyn interference? A. Yes, sir.

RXQ382. In how many instances did it occur in New York? A. Oh, probably half a dozen or more.

4752 RXQ383. In or around April or May, 1911? A. Yes.

XQ384. Did you investigate the causes then? A. Only on the one job.

RXQ385. And did you find that the cause then was the same as the cause you have given in the Brooklyn? A. Yes, sir.

RXQ386. Did you make any effort after that to ascertain whether the jobs upon which you were supplying material or were about to supply material were union jobs? A. No, I did not.

RXQ387. Did you make up your mind that you

4753

would continue to sell your material although it was non-union material to union jobs, notwithstanding that the union men might not work on it? A. Well, I wanted to sell the stuff the same as anybody else was selling, all the competitors of ours.

RXQ388. Well there were competitors of yours who were selling union made goods to union jobs, were there not? A. I don't know whether they were selling the union stuff or not, but I know for a fact that they were buying the same stuff from the same people that I was buying from.

4754

RXQ389. That is, in some cases you knew that union men were working on jobs where material purchased from the same people from whom you purchased it was being used? A. Yes, sir.

RXQ390. And was that done, do you know, with the knowledge of the union men? A. I suppose so, I am not sure.

RXQ391. You don't know? A. No, sir. I don't know whether the employees know it, I think the employers know it.

RXQ392. Do you know of any union manufacturers who make material similar to that which you sell? A. I don't; no, sir.

4755

RXQ393. There are some, are there not? A. I don't know; no, sir.

RXQ394. You only know, then, of non-union manufacturers? A. Yes, sir.

RXQ395. Did you ever make an effort to find out if there were manufacturers of trim and doors who were making them under union conditions? A. All I know, they are supposed to be union manufacturers, but I know for a fact that they buy the material from the same people that I do.

RXQ396. I don't think you understood me. I am speaking of the manufacturers? A. Yes, I am speaking of the manufacturers, too.

RXQ397. You buy from Paine and Gould and others? A. Yes.

RXQ398. Non-union shops? A .Yes.

RXQ399. Do you know any manufacturers who manufacture trim and doors similar? A. I do not, no.

RXQ400. What do you mean, then, by saying that you do know manufacturers who claim to be
4757 union manufacturers who are supplying material purchased from the same people with whom you deal? A. All I know are, there are some people in the catalogues that are going around now being given out by these walking delegates, and these manufacturers or supposed to be manufacturers, buy the material the same place as I do, some from the Paine, some from the Gould and some from the other people.

RXQ401. Can you give an instance? A. Yes, I can give you some instances.

RXQ402. Please name some? A. I know Louis Marks & Son in New York buy doors from the
4758 Paine Lumber Company.

RXQ403. Any other? A. Yes, there are some others, but I can't remember all the names just now.

RXQ404. Well, did they buy the doors manufactured from Paine? A. Yes, sir.

RXQ405. And they sell them without any other work on them as union made doors? A. I suppose so, except probably they take off the name.

RXQ406. Is this a mere supposition on your part, or do you know these facts? A. I could probably give you the incidents of half a dozen.

RXQ407. Let us have those. A. I would not know them unless I went back and looked in the memo; I have a memorandum in my office, just the day as I found out about these several things.

RXQ408. And on those days did you make a personal investigation? A. Yes, sir.

RXQ409. And what was the nature of that investigation? A. That these people in the union were buying the same kind of material that I do.

RXQ410. How did you find that out? A. Because in some cases I went to the people themselves and they told me they had bought goods there.

RXQ411. What people? A. The people that I referred to in this memorandum.

RXQ412. Who were they? A. Well, I can't just think of all the names; I have got it in a memorandum home.

RXQ413. Take Marks, that you do remember, did Marks tell you he bought them? A. Yes.

RXQ414. When was that? A. He did not tell me because, as a matter of fact, we got a carload of doors in and in that carload there were some doors for L. Marks & Son, in that same carload.

RXQ415. Do you know whether they were used in New York? A. No, that I don't know; I don't know what job they were used on.

RXQ416. Then you don't know of any non-union material purchased by any of these so-called union manufacturers which was used by union employees in New York? A. Well, I don't suppose they have a job any place else.

RXQ417. But you don't know personally? A. Yes, I know that one job was used over in Brooklyn.

RXQ418. What was that job? A. It was some job on Eastern Parkway.

RXQ419. And whose was it? A. Marks.

RXQ420. Who was the contractor? A. I don't know his name, but I have got all this——

RXQ421. What was the stuff that was non-union? A. Some doors.

RXQ422. Whose doors were they? A. Paine doors.

RXQ423. How do you know? A. Because they came in that car.

4763 RXQ424. What car? A. This carload; another car I am speaking about.

RXQ425. To Marks? A. Consigned to us, but a portion of the doors belonged to Marks.

RXQ426. You sold them to Marks? A. No, I did not sell them to Marks, but they belonged to Marks.

RXQ427. Was it a union job in Brooklyn? A. I don't know whether it was union or not.

RXQ428. Then you don't know of your own knowledge of any non-union material purchased from Paine or Gould or any of these so-called non-union shops which to your own knowledge
4764 used in New York on union jobs by the employees? was used in New York on union jobs by the employees? A. When you mention New York, you mean Manhattan or Brooklyn?

RXQ429. Either one? A. I know positively that Marks had the trim contract on this job and he used Paine doors.

RXQ430. But you don't know whether it is on union jobs? A. Isn't he supposed to be a union manufacturer?

RXQ431. I don't know, I am asking you? A.

I don't know whether he is supposed to be or not, but he used the doors.

RXQ432. But you don't know whether it was a union job? A. No, I do not; I suppose it was, they are all union jobs over there more or less.

RXQ433. Are you an enemy of organized labor? A. I am not; no, sir.

RXQ434. Do you have any sympathy with them? A. Yes, I have sympathy with them, to an extent.

RXQ435. You don't think, though, that they have the right to refuse to work upon any material which you sell them? A. I think it is up to the men themselves, the workingmen.

RXQ436. I am speaking of the workingmen? A. Do I think they ought to work?

RXQ437. You don't think that the workingmen have any right to refuse to work upon the material or any material which you sell to parties constructing buildings? A. I think they will do the work.

RXQ438. You don't think they have a right to refuse to work? A. Do I think they have a right to refuse?

RXQ439. Yes. A. I think they all can refuse to work if they want to.

RXQ440. You think, though, that the men who are their officers have not the right to advise them that it is non-union material? A. No, that is what I don't think.

RXQ441. You don't think the officers have any such right? A. Well, it all depends what the cases are.

RXQ442. Well, take one of your cases? A. Well, no, I don't think that the walking delegate ought to come around and explain to the men that it is non-union stuff.

RXQ443. You think they have no right to mention that? A. No, sir.

RXQ444. But you think the men themselves if they find it out have a right to refuse to work on it? A. I think so; well, that is up to the men; I don't see how you can compel a man to work if he don't want to.

RXQ445. Is it upon that theory that you commenced your litigation against the men? A. No. Well, yes; that was one of the things. They go around and they tell the carpenters or the owner
4769 or the contractor not to buy any goods from Parshelsky because he had a non-union shop he was doing his business with.

RXQ446. If they have a right to do that, then that is an advantage, is it not, to the contractor, to known in advance that he will not have difficulty with the union carpenters? A. You mean, the contractor?

RXQ447. If these officers have the right to notify the contractor not to purchase non-union material, for if he does, the union men will not work on it, that is an advantage to the contractor to know it in advance, is it not? A. I don't think so.

4770 RXQ448. You think it is a disadvantage? A. No, I don't think it is a disadvantage.

RXQ449. Well, then, it is of no consequence at all? A. Oh, yes; there is some consequence sometimes. It all depends who the contractor is.

RXQ450. So the difficulties are with the contractor and not with the men? A. Oh, yes; it is with the men too; some contractors don't care and some do care.

RXQ451. Well, if the contractor wishes to employ union men then it is an advantage to him to

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know that in advance, isnt' it? A. Well, yes; sometimes.

RXQ452. None of these union men have ever used any violence in any of your cases, have they? Struck anybody, or hit him—your cases, I am speaking of? A. No, not in our particular cases, but there were some other cases where they used violence.

RXQ453. Where some of the union men struck somebody else? A. Ys, sir.

RXQ454. You saw it? A. No, I did not see it but one of the employees saw it.

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RXQ455. Why do you supply non-union material instead of union material to these jobs? A. Well, because I can buy my non-union material at better advantage.

RXQ456. Cheaper? A. Yes, better prices.

RXQ457. And then you think that the union men who receive better wages or have better conditions should work upon the material? A. No, I believe that all the union factories they buy the material at the same place that I do.

RXQ458. That is a belief you have? A. In some cases it is positive.

RXQ459. You can give us no proof of that, could you? A. Yes, I could. I could not give it to you just now, but if I went home to get my memorandum I could tell you.

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RXQ460. What does the memorandum contain which you have? A. Well, I did make a memorandum of all these different times when I knew that union men were supplying material on the union jobs; I made it my busines to find out when and where they did get their material.

RXQ461. But you did not make any personal in-

vestigation of these cases, did you? A. Yes, sir.

RXQ462. And that investigation you made was the investigation you have described here a little while ago? A. Yes. Only I just happened to think of this one case.

RXQ463. Marks? A. Yes.

RXQ464. All the other cases were the same? A. Yes, all about the same.

By Mr. Beattie—

4775 RXQ465. At the two prior sessions of this reference, you promised to bring your contract with the Paine oCmpany and the Gould Company? A. Yes, sir.

RXQ466. Didn't you know then that you did not have any written contracts with them? A. There are the Paine contracts.

RXQ467. This paper you have presented is simply a list of prices that they sell their goods to you at? A. Yes, sir.

RXQ468. That is referring only to the Paine Company? A. Yes, sir.

RXQ469. Where is the contract by which you
4776 agree only to buy Paine doors? A. That is not a written contract, only an oral contract or mutual understanding.

RXQ470. Then you have had no written contract with the Paine Company either by letter or formal written contract during the past year? A. No, sir.

RXQ471. Except this typewritten statement of prices that they sell you at? A. The schedule.

RXQ472. And you have had no written contract with the Gould Manufacturing Company within the past year of any kind, is that right? A. There was some correspondence. I was out in Oshkosh

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myself in September and Gould and I, we had a mutual understanding for one year.

RXQ473. You previously testified: "Have you got the contract with the Gould Manufacturing Company? A. Not with me, no. Q. Will you bring them on the next hearing (referring also to the Paine Company? A. I will, yes, I will bring them here." What contract did you refer to? A. I was going to bring over all this correspondence we had.

RXQ474. Was there a contract in this correspondence? A. It is what I would call a contract, yes; we wanted to enter into a contract and he told me he would either come to New York or I would go out there. I happened to be in the locality and I went out there.

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Re-direct examination by Mr. Merritt—

RDQ475. Do you have any contract with any manufacturer whereby you agree to purchase your trim exclusively of that manufacturer? A. Well, I have some; there is some oak trim and white wood trim and bass wood trim and chestnut trim; some we agree to purchase exclusively from the Bristol Door & Lumber Company and some from other concerns; cypress trim from the Selden Cypress Company.

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RDQ476. Did you agree with the Selden Cypress Company to purchase your cypress trim? A. Only certain kinds of cypress trim and so on with either factory.

Subscribed and sworn to before me this day of , 1912.

COMPLAINANTS REST.

4780 Nathan Paine, for Complainants—Direct.

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

PAINE LUMBER COMPANY, LIOITED, *et als.*, Complainants,
against
ELBRIDGE H. NEAL, etc., *et als.* Defendants.
} In Equity.

4781

UNITED STATES OF AMERICA,
Eastern District of Wisconsin,
State of Wisconsin,
County of Winnebago,
City of Oshkosh.

The examination of witnesses *de bene esse* beginning on the 6th day of September, 1911, on behalf of the complainants before me, D. C. Pinkerton, at my office, No. 28 Washington Street, in the City of Oshkosh, in the State of Wisconsin, in a
4782 certain suit now pending in the Circuit Court of the United States for the Southern District of New York, wherein Paine Lumber Company, Limited, *et als.* are complainants, and Elbridge H. Neal, *et als.*, are defendants.

APPEARANCES:

Mr. WILLIAM P. MALONEY and CHARLES M. BEATTIE, for the individual members of the Brotherhood of Carpenters, who have appeared in the action.

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EIDLITZ & HULSE by Mr. Mayer, for the defendants, Hugh Getty and others, defendant members of Master Carpenters Association, who have appeared in this action by Eidlitz & Hulse.

D.-CADY HERRICK, by Mr. Mayer, for the defendants, Murray & Hill Company, and other members of the Manufacturing Woodworkers Association sued herein as defendants.

WALTER G. MERRITT for the complainants. 4784

Mr. NATHAN PAINE, a witnes scalled on behalf of the complainants herein, and residing more than one hundred miles from the place where this cause is to be tried, being first duly cautioned and sworn to tell the whole truth, and being carefully examined, deposes and says as follows:

Direct-examination by Mr. Walter G. Merritt—

Q. Give your full name, Mr. Paine? A. Nathan Paine.

Q. Your age? A. 41.

Q. Your address? A. Oshkosh, Wisconsin. 4785

Q. That is your residence? A. Yes sir.

Q. You are connected with the plaintiff corporation, the Paine Lumber Company, Limited? A. I am.

Q. Is that the exact title of the corpoartion? A. It is.

Q. And in what capacity are you connected with that corporation? A. Vice-President.

Q. How long have you been Vice-President? A. About five years.

Q. And what are the general nature of your duties, do you act as general manager? A. Advisory in all the affairs of the company, the usual duties of a vice-president of a corporation.

Q. Are you familiar with the conditions surrounding the employment of men for the corporation? A. I am.

Q. Do you have charge of the general matter of selling your merchandise? A. Indirectly through advising with the salesmen, sales manager.

Q. Have you determining voice in such mat-
4787 ters? A. I have.

Q. In what state is the corporation organized? A. Wisconsin.

Q. How long has it been so organized? A. The corporation was organized I believe in 1884.

Q. And it has been engaged in the same line of business ever since that date? A. Yes, sir.

Q. What is that line of business? A. Operating in timber lands and handling the product, in a manufacturing way produce general lines of mill work.

Q. And by general lines of mill work, do you include doors, sash, blinds, trim, etc.? A. I do.

4788 Q. Does your corporation operate any factory in the State of New York? A. It does not.

Q. Are all the factories of the Paine Lumber Company, Limited, in the State of Wisconsin? A. All the factories owned by the corporation are in the State of Wisconsin.

Q. Approximately how much is invested in the business? A. Several million dollars.

Q. How many people do you employ in the factories? A. We are employing now about 2000.

Q. Does it ever exceed that number? A. With

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full crews it would approximate 3,000 in Wisconsin.

Q. Does that general number of employees hold during—for a period of years past? A. For several years back.

Q. You employ what are called carpenters or woodworkers? A. To some extent; woodworkers very generally.

Q. Can you state whether or not there is any distinction in the craft of the man who works in the factory, like the Paine Lumber Company, and in the craft of the man who works outside in erecting materials? A. I think the general use of the two terms has caused some confusion, I think they are used indiscriminately, referring to either case; we ordinarily understand a carpenter to be an outside man, although there are some what we call bench men, who are carpenters employed inside; while the woodworker we understand to be the one who is employed in the mill about the machinery.

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Q. But does the training and skill of a man employed as a machine hand or woodworker in your mill equip him for the work of an erecting carpenter outside?

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Mr. Beattie: Objected to, the witness not being qualified.

A. Not at all.

Q. I will ask you whether the training or skill of an outside carpenter would equip him for the work in your factory?

Mr. Beattie: Same objection.

Q. As a machine hand? A. The outside carpenter would not be equipped in any sense to work about machinery.

Q. And in your duties as an officer of your company you are familiar with the qualifications required for a successful mechanic in your employ, are you not?

Mr. Maloney: Objected to as calling for a conclusion on the part of the witness, and as to his qualifications, and not stating the facts.

4793 A. I am.

Q. What are, in a general way, the duties of a machine hand? A. The direct operation of the machine, in the way of setting it up as we term it for its work starting it, stopping it, and seeing that the work produced is a proper quality.

Q. Can you tell me approximately how many carpetners and woodworkers you employ? A. I should say two-thirds of the total number we employ would be classed as carpenters and woodworkers.

Q. Do you operate what is known as an open shop? A. We do.

4794 Q. Does your company ever discriminate against the employment of any person because he belonged to any labor organization?

Mr. Mayer: Objected to as calling for a conclusion i n one word, discrimination, and not stating the facts.

A. It never has.

Mr. Mayer: I move to strike out the answer.

Q. Have you ever refused to employ any one in your mills because he was a member of any labor organization? A. We never have, to my knowledge. 4765

Q. And you would know if it had been done during the period during which you have held office? A. I would undoubtedly know.

Q. I wish you would give us in round numbers the general amount of merchandise which your corporation produces and sells each year? A. In millwork lines about two and a half millions.

Q. And does that answer apply to three or four years back? A. It does. 4766

Q. Now, I wish you would state in round numbers what portion of this output is sold to customers outside of the State of Wisconsin? A. At least 9/10 of it.

Q. And that merchandise is sold for use outside of the State? A. It is.

Q. Is it necessary for the profitable conduct of the business of your corporation that it should secure business outside of the State of Wisconsin?

Mr. Maloney: Objected to as incompetent, calling for a conclusion and not stating the facts. 4767

A. It is necessary.

Q. And if your corporation did not secure this business outside of the State of Wisconsin, would it be possible to operate at a profit under existing conditions?

Objected to on the same grounds.

Q. I mean with its present organization? A. It

4798 Nathan Paine, for Complainants—Direct.

would hardly be possible to operate at all, as only a fraction of our capacity could be sold within the State.

Q. How are your sales made, that is, by what instrumentality do you secure your orders? A. Through travelling salesmen and local sales offices in the different territories and districts.

Q. Are the orders secured by these local sales offices and travelling salesmen subject to approval and acceptance at your factory? A. Altogether.

Q. Can you give me in round numbers the
4799 amount of your annual business with customers in the City of Philadelphia?

Mr. Beattie: Objected to as immaterial.

A. From two to three hundred thousand dollars.

Q. And can you give me the same information concerning Chicago?

Same objection.

A. $300,000 to $400,000.

Q. And Boston?

Same objection.

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A. About $200,000.

Q. Do you maintain a sales office in the City of New York? A. We do.

Q. Do you maintain one in these other cities I have just mentioned? A. Not in Boston; we do in Philadelphia and in Chicago.

Q. Who are your New York representatives? A. Mr. Rosse and Mr. Bondy.

Q. And where is your office located? A. No. 1 Madison Square, Metropolitan Life Building.